

FOR

CONSCIENCE, and Swearing  
ALLEGIANCE, to the

GOVERNMENT

being Obligated thereto, by, (it being Feared  
and against the Law of GOD, Nations, Nations,  
and Cities. And being, hereby, Justice  
Advantage, and Right  
and Rule  
Precedents

WHEREIN

is declared (by Prevention) all the Objections of  
Dissent, according to their own uncontroversial  
Principles

And is proved, and will I judge, Luke 12. 32.

And is proved, and will I judge, Luke 12. 32.

Caroli. Prim. in fin.

By F. G. G. G.

And is proved, and will I judge, Luke 12. 32.

And is proved, and will I judge, Luke 12. 32.

65.2986

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Here have appeared many Pieces, of late,  
but none of this Theme; which viz. de-  
monstrates, that no Arguments, moved against  
any Revolution that hath ever hapned in the  
World, militate against the present Government:  
for, where, the least scruple might occur, Provi-  
dence hath ordered such Singularity of Right  
and Fact, that each particular Man must find  
his own Opinion (as to Conscience of Obedience)  
whether subtilly speculative, or solidly practical,  
in its Establishment. So you (if Pious or Wise)  
are put to a necessity of making a new Enquiry;  
since your pre-conceived Informations from Sal-  
masius, &c. touch not the point, à disparatis  
enim, nulla est illatio. In this, Law must  
determine your uncertainty: for, Divines, con-  
tending, have, as their Canon, the Law of GOD  
and Nature; Princes have, moreover, the Law  
of Nations; and Subjects, besides these three,  
their Civil Laws: whence, all Mortals, have  
no other Rule of their Opinions and Actions. I  
fear, by your Actions, you have not had leisure  
to dive accurately in your own Principles: For  
there can be no Refined \* Loyalist, (i. e. who  
conforms Will and Actions to the Laws) un-  
less he be a polite Lawyer, (i. e. who exactly  
knows them) all others (who blindly zealous)  
are but dull and Bastard Ones. Therefore, I

\* This  
word  
comes  
from Loy  
i. e. Law  
Hence  
Loyants,  
i. e. Lega-  
lity, and  
disloyal, i.  
e. illegals.  
So Al-  
legiance  
is an O-  
bedience  
accord-  
ing to  
Law; and  
goes not  
a foot  
farther;  
sic vassal-  
lus Ligatus  
nihil de-  
bet Domi-  
no Ligio  
ultra id  
quod Jus  
Feudale  
injungit.

\* All Law-  
yers are  
express  
in this,  
when the  
question  
is betwixt  
two, not  
subject to  
the same  
Authori-  
ty: parti-  
cularly  
of Scot-  
land, jus  
Gentium  
cum exte-  
riis omni-  
bus servandū  
non obstan-  
te quocun-  
que Regni  
Statuto:  
Craig: de  
Fend:  
pag: 58.  
For the  
Law of  
Nations,  
(as Superi-  
our)  
can no  
more be  
changed  
by Muni-  
cipal Law  
(being  
inferior)  
than Man  
can  
change  
the Law  
of God; or  
private  
Subjects  
publick  
Statutes.

( )  
have published this Essay (though destinate, by  
the Author, only for some private Friends  
whereby you're assured of ingenuity) since, there-  
in, you have an elaborate Illustration of all, great  
remote, difficulties in this matter.

## POSTULATA.

1. **A**LL you can require, is, that James  
7: 2. ceased to be King, without be-  
ing De-posed by his Subjects. Then

2. The Law of Nations is the sole Judge,  
(who hath Right, or not?) betwixt Sov-  
raign Princes. Because

3. They all have agreed that it should be the  
Polemon of their Differences, as a Common  
pre-Contract, and res hactenus judicata. Hence

4. K: J: (By that antecedent Consent in it)  
hath voluntarily renounced his Right (posito  
eo casu in which, it transferred Right from him)  
and conferred the same on K: W: and Q: M:  
Consequently

5. No Municipal Law could impede (as to  
that case, its Effect and Decision: since the Laws  
of the great Society of Mankind are unalterable  
by any lesser part of that Society; especially when  
the Body polittick consents that it should be  
so \*. Finally,

6. In explication of these, please, to ponder  
maturely the Marginal Notes and Citations:  
and even then, ne Judices, nisi tota lege  
persecta.

IN:



# INTRODUCTION.

ALL that can render a Government Sacred and Immoveable, viz. Birth-right of Succession as to the Persons, Election of the people as to the time, and Consent of the late K. P. Right making way for both; concur in the present Establishment. Wherefore the subsequent Essay does Demonstrate the manner how Dissenters must (even in their own principles) perceive these to concur, and so be obliged in Obedience, thereunto, by the Laws of GOD, Nature, Nations, and Civil.

As to the Birth-right in the Persons, and the Peoples Power in Electing, the time of declaring it, take this brief Discourse. The Powers are of God's, (for none other could confer *juris vita & necis*) and were given, first, to Fathers over Families; but since they had Right (for there was no Precept as to the Persons) to transmit, and so amitt, when by consent, there were two (yet subsisting) Fundamental Contrasts (*nam fuit duorum plurimum in idem placi consensus, qui in his sari re quam verbis*) in our Kingdoms, viz. One Popular and Anterior (for there must be a Chapter, ere they can Elect a Bishop) amongst the Fathers of Families (*Singularum cum Singulis & Universis*) a greater Right to mutual Union, Commerce, and Defence, whereby they became a Body Politick: another Rectoral Posterior betwixt that body Politick *Qua sate*, or its

\* The Powers are the same (i. e. still of GOD) when in the whole Body, & when contracted (the with a greater Lustre, as in the dispersed light to the

in the Head: just as the hand is the same when Extended and Folded. This Contract is distinct and separate from the Rectoral, not only in Time and Place, but also in Signal Effects: For by it, (in Elective Kingdoms;) after death of the King the People remain Unite, and the whole hath Lawful Authority over the Minor part in all determinations: in a Successive Kingdom; if the Royal Line fail, the Kingdom is not dissolved, but the Major part may overthrow the Minor (which would not be without this Union, in Electing a new Royal Family; as also, if the King be Pupil Fatigued or Furious, in consulting a Tutor or Protector. Where there is no Incorporation of Kingdoms (as among the Kingdoms of Spain, Germany, Britain, &c. which are subordinate) the Right, in these cases, belongs to each: and where there is no Union of many Families (the whole being one great Family of one, and so no proper Common wealth) as in the Ottoman Empire, once failing this Family would fall to pieces, ut morientis Patrematibus, quique sit caput novae Familiae.

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\* Hence Major part ( *Singulos & Universos* ) and one Sovereign as Head thereof; whereby it was obliged and the Crown was provided to him, and as immediately to the person should be ( *eo deficiente* ) next of his Blood and habile, as to himself; as to so many *Heirs of Entail*. We had many Enemies about, and contentions, within us, and the stronger bore down the weak; wherefore the cause, end, meaning, and tenor ( *Taciti & expressi eadem vis est* ) of this last Contract must have been to protect us from Abroad, and distribute right Impartially to all at Home; in fulfilling of both which (and so the King's part of this Contract) the Laws were necessarily intended to be the Standard and Rule (for there is no other just *Norma Agendorum*, *ergo quod inesse debet, praesumitur*) but to put that beyond doubt, Free Immemorial Custom ( *optima Interpres* ) and the Laws for the Coronation Oaths (by which the King is solemnly married to his Kingdoms) declare and prove the governing us by Law to be our Constitution; yea, if formerly otherways, in so far, innovate it; as being a new Contract of King and People ( *Lex est communis Reipublicae sponsio* ) and *posteriora derogant prioribus* \*.

Hence tho a King break (by Notorious injuries) entirely his part of this Restoral Contract with one or the Minor part of his Subjects; (tho they be, in Conscience, freed from their's, and so may withdraw, and Subject be entered themselves to another Sovereign, who, *Jure Belli & proinde*, may vindicate † their right if hindred to dispose of their Estates) yet the Popular Contract with the Major part altered, (who cannot Rebel [by assisting the Minor] in that case & so pro since the Restoral Contract, with them *ut cum totis*, remain entire) makes it High Treason against the State (and only by consequently the King who is its chief Member) to ruin Word and its Peace, or the Order of publick Judgments, by Resistance: Yes, moreover, if after a total breach of his part and even with the whole or Major part; it be known to them Deed; for and they be in Capacity, safely to declare the breaker excommunicate.

no less evidence of consent than express passion. Hence, who can deny but our first, or last, Agreement was, that our K's should make, (and consequently unmake) no Laws and impose no Taxes but in Parliament; and should Govern according to these Laws made in parliament. Whence it is the Essential form and kind, and so the Fundamental Law and Constitution, (as to the King's part of the Restoral Contract) of our Government. Hence if a King enacts and execute Edicts, which (in effect) annul the Constitution, and so the contract (as K. J. did) he annuls thereby his right therein, *Nihil enim nullæ sunt affectiones*. This is clearly decided by the Scotch parliament, and that when it had the effect of changing Fundamental laws under consideration: V. Acts for the Union of both Kingdoms.

† Hence appears, that Neighbouring Princes have right to vindicate injuries done to the persecuted flying to them.

clude

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cluded; yet do it not; but freely continue in Social Acts (and so renew Society) with him, they can never declare this new Contract broken on Violations of the Antient, since Divine and Humane Laws obliges us morally, to keep Sacredly a Valid Contract, *Tam re, quam verbis in iurum.*

But if a King break his whole part of this Restoral Contract, with all or the Major part of the Body Politick, (viz. he [tho having power as to the matter, and the Laws determine the manner] Negatively, does not protect from, but positively expose them, to, their most Mortal Enemies Abroad; and does not Justice, but the greatest Injustice to them at Home; and to enervate all Laws which lye in the Road of effectuating both, alters the Constitution it self [by Word, Write, and Deed] from Legal according to, to Despotical above and against, all these as Laws) then he ipso facto, looses his right; and they are *eo momento*, free of their part also; tho *metu & majore* (for as effectually, as the most ample Indemnity; *Qui enim vult consequens, vult antecedens sine quo ad consequens perveniri nequit.*

† So a Prisoner, is not de jure, in the power of his Creditor after Dissolution of the debt; tho he be forcibly retained, de facto, therein: And a Wife forced to Bed with her Husband (after his Adultery) may pursue Declarator of Divorce; notwithstanding that injurious communion.

\* K. J. Did this most evidently. 1. As to Abroad; exposed us to Foreign Enemies, (Popish Prelates, Jesuits, Priests, French, Irish, Papists) and so to Foreign Jurisdiction and Powers; which invaded all. 2. At Home; for not complying to Popery and Slavery, all Ranks of Subjects (Clergy, Nob. Gent. Com.) were Racked; all that was dear to them (Relig. Lives, Fort. Libert.) being Attracted: for putting in fit Instruments to that end, all the parts of Government (Eccles. Civil, Milit.) were illegally Administrated; and so, all methods taken (in judgement by injustice, out with the same by Force) to Consummate our Universal Ruine. 3. K. J. perceiving, that Limited Power and Parliaments (while Existing) were insurmountable Barres; did Abdicate his Legal Power (as useless to introduce popery and Slavery, and to justify these Acts preliminarie thereto,) and usurped in its vacant place, an boundless power above Law (which alone, he knew, was sufficient and so altogether necessary) whence (Law being the Great Civil Charter, of our Reli. Liv. Fort. & Libert.) he, at one blow destroyed our All. This power, he told his Parliament he would stand by, owned in his Declarations for Suspending our Laws, and would not govern by any other all the last part of his Reign: But since Britain was too strong to suffer the Execution of that power in all particulars at once; he proceeded piece-meal, especially in the important Generals; and so 1<sup>st</sup>. annulled (in effect, tho cloaked with the Word, Suspended,) the Laws for Religion, and consequently the Grand Properties of all. 2. Subverted the Constitution of Parliaments (in exclud-

ing

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ing in effect the Barrows, and corrupting [by Money, Threats, and Favour] other Members, to gain the major part) because they are the Fence of the happiness and safety of all. But finding this would not do the Work (when once the Signal of what was to follow would appear) He kept up Armies in time of peace, which by the Sword bore down all, &c.

it can neither prejudice them, nor (ex proprio delicto) profit him) they stop a small time from declaring it. In word, such Veneration is due to the very show of Majesty; and justice in admitting the purging of failings, even in private Contracts; that they have only right to Petition (in the first place) which failing, to Demand by Arms (if all or most concurrently or passively) under the next in Blood; which also failing to declare *Quid in re est ab initio*. For

As to the Restoral Contract; whether the Royal Right, arising from it, was *Donatio mera* or *Donatio sub modo* of that mighty Power and prerogative; it ceaseth + by signal Ingratitude or neglecting the *modus*; or if a Contract of Society with the Body Politick (whereof that King is intrusted + the great Director and Head) total breach of his part, Liberates them from the necessity of persisting therein: Or if a *Com-promiss* to an Supreme Arbiters Determinations; Notorious unexpected Injustice annuls the Submitters Obligation: or which of all these; Allegiance was first given for our Protection (not Destruction,) and so, *Cessante causa cessat effectus, causa data non secuta*. Hence, tho all the most Sacred Obligations (enjoyed by Laws Divine and Humane, and sworn in Oaths, without any explicit exception) of Inferiour to Superior be conglomerate in that King: Yet he, as *Lord* loses his Superiority by

† The hainous Feudal Delicts against his Vassals; as Father, nature of *Si ad Patriam delendam veneris*, may be resisted \* by his Trust or Sons; as Husband, by Adulterating and Deserting his, Mandate frees his Wife from her Bond and Oath: as Patron amittis *in se solum jus patronatus*, by not alimentering his solemnly confirmed phangable Libertins; as Pope *ad extra*, by enormous Crimes, gives as to be free scope to a General Council; or, Finally, as Master, Irrevoca opens door (at least) to the *Aliar* for his oppressed and ble (as in almost destroyed Slaves.

offices *honorabile* or *ad vitam*) yet it cannot admit, that when it is not performed according to the Instructions agreed on, betwixt Mandant and Mandatar, (much less when contrary thereto) it should not cease ob *Culpam* & *Dolum*. *Post Deum, nemo archius ex contractu, precipue jurato, Rex subditis* (quo major fides, eo, archius vinculum) ac proinde obligatur ad omnia ex eius essentia *ab ipso inseparabile* profuentia, Bruicem: ad l. 31. ff. de Ley: Arg: Heb: c: 1: v: 2: 4: ult: c: 11. 9. 7. *ius enim Dei, Nat: & Gent: eum obstringit*. \* Vid. Cit. Brun. L. 35. Relig: & Sumpt. Fun. ff. As

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As to his Un-kinging \* himself ipso jure, & so being self

deft, 1. his entire breaking his part of the Restored Con-

stitution (from Legal to Illegal, Limited to Unlimited,

the First to a Second, *juxta Legem supra & contra Legem*,

and so *Ad antiqua* to *Nova*) cannot but Annihilate (as to

him) its Efficacy: For *Inclusio unius* (of these) est *exclusio*

*alterius*: they being Inconsistent (contraria, formal subsistere

*non possunt*) in eadem individuo; *Forma dicitur qua Essentiam*

*repraesentat*; *Forma, ergo, mutata, prope interit rei Substantia*;

immo, ab *effectibus* videtur *quarum corpus manet Forma mutata*

*est*; *ideo si corrupta reddita sunt vel transfigurata videntur ab-*

*esse*. Hence, he investing himself with the one (as dis-

terent from our Constitution as Democracy, and more

important than subjecting us to a Foreign Prince †) Di-

vests himself of the other; and so, *2da ipso facto*\*, Ab-

dicates his sole Legal Right, (i. e. voluntarily Rejects and

Renounces it) and Defers the same, (i. e. *Rem abiicit, eo*

*alio ut eam amplius Agnoscere noluerit*) and consequently

forfeats his that Right, (i. e. Exhausts and Denuds him-

self thereof) so that the King and Right dies, and is gone

(tho the Person, and Possession remain) and that *ipso jure*:

For, "Amittitur, ipso jure, potestas Dominica in Seruum quem

"*gravi morbo Decumbentem Dominus neglexit*†; Patria po-

But K. J. after assuming Despotick power, did exert the same in

making (V. G. nothing but a Law could qualify Papists) and unmaking.

(By annulling the Laws Incapacitating Papists: V. G.) Laws without

Parliament; and administered against all the Laws; and so broke off the

two Fundamental Supports of our Government and his own Right: Whence

of necessity Subversion both fell, (for how could the Government subsist

when destroyed; and how could his Power remain after quite Annihilating

that by which, and in which, he enjoyed it) and so he Unkinged himself,

*ipso suo facto*.

† For the power of the Governors is more important than what persons

shall Govern.

\* L. Julianus Sec. si quis rem suam Exhib.

† L. 13. Sec. 1. L. 14. ff de V. S.

\* Abdicare (inquit Nonius) est abjicere; rem (certis de causis)

se removere, nec deinceps agnoscere velle. Abdicare se tutela

i. e. nolle esse Tutorem. Abdicatio Unius opponitur Adoptioni al-

terius, Plin. L. 7. C. 45. Hinc Abdicare se Magistratu, est, ante tem-

pus Magistratum deponere; se privatum reddere; L. 2. Sec. 13. ff.

Or. Jur. unde Senatus de P. Lentulo; cum se praetura Abdicasset, in

Custodiam traderetur. Hence appears how K. J. did Abdicate his only

Right, as clearly; as by a written Renunciation under the great Seal; and

it was declared so, by the States accordingly. † L. 2. ff qui fin. Manumiss.

Which Law is called Magna Charta Libertatis Belgica.

testas,

\* There

are two

fundamen

tal hinges

of our Go-

vernment

and con-

sequently the

King's

Right.

viz. that

all the

Laws be

made in

parlia-

ment, and

that

the King

admin-

strate ac-

cording to

these laws

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"asfas, ipso jure, interit Patri filium exponenti, duo  
 "expositum scienti; Mater (Tutrix) ad secunda vota transi-  
 "ens, perdit, ipso jure, Tutelam, & omnia privilegia, prioris  
 "Matrimonii; quivis Tutor post Cognitionem de suspecto inclu-  
 \* pacius "atam, amittit, ipso jure, jus Administrandi; idem in quo-  
 cent. 5. 2. "cunque Officiali, pendente quaestione delicti ( de quo per Infor-  
 79. "mationem Praparatoriam constat ) in officio commissi eique  
 † Brun. "Contrarii †; Dominium reddit, ipso jure, ad eum qui rem tertio  
 ad L. 14. "dedit ut se aleret, si alior fidem frangat ||. Hinc Jurisdic-  
 ff. de So " & Majestatis jura, ipso jure, adimuntur Imperatori, Papa,  
 lut .ibi. "Episcopo, &c. Monasterium ingredientibus; aut quod acqui-  
 Cis. "pollens est Facientibus \*. Even so our engagements be-  
 || L. 1. C. ing Correlata ( tho † unequal ) stand and fall together  
 don. sub. ipso jure.  
 mod. ibi. This Ruption of the Rectoral Contract, and irritancy  
 DD. of that Kings Power, and so Interitus of his King ship  
 \* Limn. thereon ||, ipso suo facto & ipso jure; does not dissolve \*  
 de jur. our Engagements to the next in Blood then Extant ( for  
 pub. Lib. the next's Right, is as immediatly from [ by the first  
 2. C. 11. Contract with ] the People as the preceedings was ) but  
 makes way for, and devolves the Regal Right on, that Per-  
 † For one son ( jure proprio ) as Heir to the late King || Civilly dead.  
 Treason  
 ( or breach ) of a Subject puts him out of his Kings protection; but a tract  
 of Tyrannies, against the major part of Subjects, is necessary to discharge  
 Allegiance.  
 || Sic Testamentum dicitur Ruptum, & Irritum fieri, cum ip-  
 so jure concidit.  
 \* Hences the Votes declaring the Throne Vacant, implied and supposed  
 a Throne, and so a Crown, and consequently the existence of a Kingdom:  
 and thereon the Conventions of both Kingdoms did agree that the Monar-  
 chies remain Successive. Vid. Journ. & Rosenth. c. 11. con. 22.  
 || K. J's. Resolutions and practice thereon, demonstrate that the Laws  
 were not intended to be the Rule of his Government ( but his own Will and il-  
 legal Counsellours advice ) whence, Non est Rex ubi dominatur volun-  
 tas & non Lex as Bracton testifieth; And Rex ad hoc est constitutus  
 ut populum Domini—regat, & ab injuriis defendat—quod  
 nisi fecerit, nec nomen Regis in eo constabit. Laws of K. Edw. the  
 Confess. Sect. 17. Mors Civilis est, cum juris Civilis ratione aliquis  
 pro mortuo numeratur; intereunt enim homines. capitis Dimi-  
 nutione ( L. 64. Sect. ult. pro Socio. ff. ) Res dicitur Mortua quā quis  
 Locupletior non est. ( V. ll. in Lex. jur. ) Sic Plantus, tem mortuum  
 & occisam, dixit, pro fracta & perdita. Hence, Jacobus Rex, est  
 Mortuus as to his King ship & patrimonium Coronæ ( and that Concretely;  
 for Abstractly, Rex non moritur ) and consequently his Heir succeed-  
 ed thereto, and is obstriced for his Debts Regali & publico nomine  
 contracta. But Jacobus as to his person & patrimonium privatum  
 Lives; And consequently that Heir cannot ( as yet ) be, Hæres viventis  
 quatenus

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quatenus est vivens, and so obliged for his Debts personali & privato nomine suscepta. So it is in other Heirs of Entail: as all Lawyers agree. This only per indicem. Only remember; that by the Roman Law Bona Dammati ad ultimum supplicium ( & sic, civiliter mortui ) sur deportati ( & sic naturaliter viventis ) transibant in Hæredes usque in tertium gradum: sic habemus hæredes viventis, ( Naturaliter. ) Nov. 134. C. ult. anth. bona. C. de bonis Damnat.

So jus Patronatus, ipso jure, acquiritur Hæredi Patroni ( non Fisco ) perduellionis, aut alterius Criminis, etiam dammati \*; Opera servorum deportati transmittuntur ipso jure in ejus Hæredem; Jus Familia Filio accrescit ipso jure, quamprimum avus, ( qui Nepotes habuit in Potestate ) illud amisit; Jus Imperii devolvitur ipso jure in Regem Romanum, Imperatore Remoto: sicut, in Naturalibus, Corruptio unius est Generatio alterius. Yet that Heir cannot Exercise Actiones Hereditarias before Solemn Entry or Addition; and the Throne cannot be entered by one till it be declared Vacant of any other ( nam non esse & non apparere paria sunt ) therefore Hæreditas Tacens ( qua interim Nullius videretur ) interim vicem defuncti sustinet in necessariis; And so necessary Legal ( not voluntary, Illegal ) Acts ( quatenus sunt ob interesse tertii non in favorem Civiliter Mortui ) after his Forfeiture and before Declaration thereof, are valid, as Founded on ( still standing ) Laws, ex Tacito, consensu Hæredum & Populi, & compromisso partium ||.

Finally, the Heirs right appearing also, by Declaration, and its Exercise being accepted eo nomine: Aditio retro-trahitur ad mortem defuncti; and so excludes all others born, or to be born, to him after his Civil Death: For an After-Birth ( tho never so certain ) comes too late, to overtake any Right, aut tollere jus Quæstum tertio: Since, tho it pretend to be Filius Jacobi, it can never pretend to be Filius Regis; nam non est Rex ubi dominatur voluntas, & non lex; Bracton. Et Rex ad hoc constitutus ut Populum domini regat, & ab injuriis defendat--- quod nisi fecerit, nec nomen Regis in eo constabit, Laws of K: Edward, confes: sect: 17. So in the former instances, the Right is acquired ipso jure, to the Child born before, not after, the Father's admitting it; & dominium ex priori matrimonio patri quæstum, acquiritur, ipso jure Liberis ipsius Matrimonii ( eo ad secunda vota transunte ) exclusis Liberis ex secundo Matrimonio Procreandis; & Dignitas acquiritur liberis ante Patri dignitatem, non post eam amissam, susceptis. Horam: 2: illust.

The matter of Right betwixt the Antecessor and Successor being thus Naturally stated; the Question is, who shall declare what is dubious therein, and witness the truth of the matter of Fact. None of the Parties singly can do this, the matter being propria causa: Therefore the \* People

\* L. 4.  
ff jur. pat.  
L. 5. C.  
cod.  
† L. 2.  
fin. ff. usuf.  
leg.  
161. D.

|| All this is largely treated by DD. ad L. Barbaricus ff. off pra.

\* It is the law of Nature, that, when there is no judge, licet unicunque sine iudice se vindicare, tit. c.

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(as equally interested in both) with consent of the Successor (at least) in a Convention have right to do it; since it is impossible that the GOD of Order, Peace, and Government, should not allow this only mean (their being no other under Heaven) of eviting Confusion, War and Anarchy: Especially when the Antecessor hath thrown up the reins of Government, and so given a full Career to their Liberty, by burning the Parliament in Effigie, throwing the Great Seal in *Thames*, and then an incontrovertible final Desertion.

\* They were the freest that ever was in Election and sitting: For K. W. never expressed by Word, countenance, or Deed, what he would have done, or in what manner. || De-

The Conventions \* then, being called (with advice of some, and Homologation of the whole body Politick) by the next Prince of the Blood (or Princess's Husband *jura Mariti*) are founded on both the Fundamental Laws of the Rectoral and Popular Contracts, and so both Oblige all to Submission in their Determinations. On the Rectoral; for the Regal Right (tho lurking unproclaimed) is really in that Prince as Head. On the Popular; for Conventions may, have, and must convene by Warrant thereof and Custome, in case of failure of the Royal Race, Infancy, Fatuity, Desertion, or written Renunciation of a King, to choose a King, make a Protector, or declare the next Successor (when dubious;) much more in our case, which is Equivalent to, if not more important, than any of those. Tho they have no Authoritative Power (to make Laws) nor Judicative (and so could never take the Late King's, yet remaining, Natural life for any A Kings while their Sovereign) yet they have with content foresaid a Power Declarative ||; (For it. *sua natura*, imports no Superiority) of what already was Law; clarify

est clarum facere, unde declaratio est testimonium perhibitum de vetusta consuetudine; aut prateritis factis. *Valla, Demonstrat: lib: 1.* Hence Declarations imply no Authority or Jurisdiction over the person, in relation to whom, standing custom and past facts are declared: for *Responsa prudentum* (Romanorum) did bind the Parties over whom they had no power, and *parium curiz*, the Superior, in dominio directo. Consequently, the Body Politick declaring the Late K. James to have Abdicated and Forfeited his Right, and the same to be in K. W. and Q. M. imported no Authority or Jurisdiction over either. For Inferior Courts have power of declaring Right betwixt the K; & an ordinary Subject, much more a Supreme Convention betwixt him and the next Prince, when otherways, all the Subjects would be ruined: Especially, seeing the Rectoral Contract is in Nature, Prior to Sovereignty and Subjection (for these are its consequences and Effects;) Whence (as to it) the preceeding Sovereign, and the Succeeding together with the Subjects, are unsubsordinate, and so may force performance thereof, or declare free, as other unsubsordinate States do in their Contracts with a Neighbouring Prince. The Effect of Declaration, is (not only from the time thereof, but also) from th



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time of the Rights or Deed declared ( *Leges Declaratoriz V. G. exten-*  
*dunt ad præterita* ) and so ; 1. The deeds, by which the late K. J. annul-  
 led his right, being before the Conception of the ( pretended ) Prince of  
 Wales ; he ( *the true* ) can have no right, no more than if born 20 years af-  
 ter Declaration of them. 2. The Pre-Declaration were necessary to ex-  
 clude him ? yet since K. J. surpress that, *metu Majori* ( of the French  
*Allie, standing Armes, and our Enemies* possessing the Civil and Mili-  
 tary Trusts ) and otherways, the People would certainly have made it  
 when K. J. set up ( openly ) his Power of Enervating all Laws, and so mak-  
 ing all Religious and Civil Rights Precarious ( as is evident, by some of all  
 Ranks inverting, as the Sense of the whole, the ( *then* ) Prince and the whole's  
 [ *Actively or Passively* ] therefore rising with, and declaring for, him in  
 all Corners ; and that before any Act of Hostility by him in the Respective  
 places. ) their Post Declaration how soon the Impediment was removed  
 must be equally Effectual. *Nemo debet Lucrari ex alieno delicto.*

and what was the Restoral Contract ; & the late K's break-  
 ing his part thereof ; and the *ipsum ius* of his Abdicating,  
 Deserting, and so Forefaulting his Right, thereon : and  
 consequently the Throne's being vacant as to him, and all  
 born after ( but not before ) that amission ; and ( if the  
 next in blood be *Maritata* ) her Husband, and her,  
 to be King and Queen, and the sole Administration  
 and Survivancy to the Husband : For, the Law al-  
 lows all this to the meanest private Subject ( being an heir  
 in Remainder, after Wasts made by his Father on the en-  
 tailed Estate ; and being an Husband, *jure Mariti & jure*  
*Curtesia* ) much more to a Sovereign Prince \* where the  
 publick welfare of all Subjects is concerned.

Hence, since no such Change can be made but by the  
 whole Body ( against which, at the dying gasp, its impos-  
 sible, by any Doctrine, to ensure the Head ) and that to  
 the next of the Royal Familie ( the Laws for Coronation  
 Oaths precluding Papists ) whereby the veneration to it  
 ( beyond any upstart ) is preserved, and no Forreign Suc-  
 cessive Princes engaged against ( yea they are deeply con-  
 cerned [ since the questioning the Peoples Power were, the  
 shaking all their Thrones, and making the World a field  
 of Blood ] for asserting ) the Preparative of such a Settle-  
 ment : This great and sure Title, so declared by the de-  
 termined Body Politick, is not only founded on Justice  
 ( that they may Bolt the Door on one [ not thrust out by  
 them ] rather than Multitudes should be destroyed ) but  
 also on the Common Interest of all Mankind both Princes  
 and People ( therefore engaged to maintain it ) as the con-  
 trary Doctrine ( by encouraging Princes to Tyranny, then  
 exposing Subjects to Misery, yea, at last, bringing infamy  
 on dejected Majesty it self ) ruins both.

None of the very Words ( much less the Legal sense )

\* *Iisdem*  
*successio-*  
*nis lega-*  
*bus Regna*  
*subiecta*  
*quibus &*  
*Feuda,*  
*tenent,*  
*omnes;*  
*layes*  
*Craig: p:*  
*128: disp.*  
*Feud:*  
*1: 6: 21.*  
*Schon,*

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of our Municipal Laws strick against this Doctrine. For, tho that King was Absolute (*Solutus*) i. e. a free Prince, whose Person was Subject to none, Pope, Emperor, or People; yet no valid Act ever declared his power Absolute (i. e. *Solutam Legibus*) or tho it had, yet, by leaving unde-termined \* *Modum Administrandi* ( which is *res diversæ ab ipsa potestate* ) referred the same to other Laws requiring, in that, advice and consent of Parliament. Hence; tho tur? So

a Minor hath Absolute dominion of his estate, but cannot Exercise it without consent of Curators. The Athenians could not determine unless advised by their *Præ-Consultores*; nor Romans, Nisi *Senatorio* aut plebeio *Magistratu Interrogante*; nor Dominus Feudalis sine paribus curis? Tho all of them had Absolute power and Rights. From which Examples came Parliaments, because Kings might err in Lawfulness or Expediency. Hence, seeing the Rectoral Contract was not with, ( and so could not be changed by ) these Parliaments ( but the whole Body Politick ) the Commissioners thereto had not power ( *mandati fines excedens nihil agit* ) nor, tho they had, can be presumed ( *Donatio nunquam præsumitur nisi in quantum est necessaria* ) to render that whole Body politick Slave, ( *quæ dominio alieno contra Naturam subiceretur* ) by one word: in giving or declaring ( which is equivalent and one, as to the constituents ) so that King vis & necis, over all though innocent; Right to demand all our Charters, Dignities, Estates, Goods, and Services ( as Pharaoh ) yea the parliament it self to resign its power; by declaring an Active Obedience in all things lawful ( these being incommoda non illicita ) without Reserve. In obliging the whole body -- ( headed by the next in blood ) not to controule, though he made and unmade all our Laws; imposed Taxes on us all; rescinded our Religion; took to himself all our Properties; destroyed all our Lives when not complying to these things ( for which Papists would rejoyce to be commissioned by him, that they might gain their own Souls and our Estates ) for the outmost extent of passive Obedience without Reserve would comprehend all this. But general Declarations ( taken in such sense ) are null without a special Mandat ( *mandatum generale ordinarium non comprehendit donationem inusitatam* ) for now will say that, without that, terrified or packed Commissioners could resign in the King's hands immediately ( mediately is the same in effect ) all the Lands of, or wit's his assent ( alienate ) the Kingdom; or subjugate it, as a Province, to another, argumento à minori ad majus; Neither could they redact us to the foresaid case. Such Declarations, therefore, are like other general Rules and Maxims of Law which have their inherent exceptions, Et vix est ut aliquo casu subverti non possint. Jura, enim, loquuntur de his quæ frequenter fiunt, ( non quæ raro, quod enim sævæ aut bis accidit prætereunt legislatores ) ergo non debent ad casum qui raro contingit adaptari. Semper interpretanda Lex ne sequatur absurdum; & in dubio quod minus est sequimur, præsertim cum materia est Favorabilis, Religio. sciz. Vita, Liber-

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res inextimabiles. Priores, denique leges trahuntur ad en-  
clandas posteriores (mutatio non præsuntur) nec quæ salubri-  
ter, de novo, introducuntur sunt, duriori interpretatione ad severita-  
tem producendæ: ultimo, necessitas, nullâ coercetur lege; de-  
ficit enim culpa, deficit dolus. Leges & DD: in tit. ff. de Legibus.

in so farr, and so long, as he had Regal Right he derived it  
originally (by the channel of the People) from, and held  
the same (in Tenure) of, GOD alone, (the People being  
divested) that did not impede his Voluntary Renouncing  
it ||. Subjects did not depose their King, but after his  
Spontaneous Abdicating, Deserting, and Forfeiting  
that Post, declared it to be so. Whence the Conventions  
mett with the King's Licence (whether Antecessor's King  
*nomine*, or Successor's, *re*) and we did not resist these Com-  
missioned by the King but private Men [their Commis-  
sions being Null] or at most, his Un-kinged Person, and  
so in his Natural (not Civil) Private (not Publick) Extra-  
judicial (not Judicial) Capacity. Finally our Oaths were  
Declarative of old, (and not Constitutive [as to the  
matter] of new) Right; and so as Accessories to, did fall  
with, that right, their Principal: just as the Debtors Ob-  
ligation falls, when the Creditor cancels the Bond to  
which alone he had sworn to.

*The holding a  
Right  
from  
GOD im-  
pedes not  
the decla-  
ring it  
Forefaul-  
ted, (v: g:  
the power  
of spiritua-  
l Office-  
bearers,  
& Divine*

Nothing in the Old Testament impugnes this Doctrine; jus ma-  
for (not only the Powers, but) the Persons of Kings, in  
the Jews Theocracy, were immediately of God; which  
Celestial Designation few now can produce. Nor in the  
New; for the Apostles speak, either of the Powers (not  
the Persons) that are (in the next of Blood and the  
People in our case) or of the persons, but to the Christi-  
ans, who were then the farr 3d: Minor part: And so a  
*Disparatio nulla est illatio*. Nor in Examples of Primitive  
Martyrs, for the Law and to the Contract was (not for,  
but) against them; and they were not near the Major part  
of the Empire. Nor in Elogies of the Ancients, for they  
are (not of Tyrants, but) Kings; then whom there is no-  
thing so transcendent in this inferior Orb; while they  
remain the Vicegerents and Images of God's Power and  
Majesty.

*when  
they in-  
vert the  
ends of  
their in-  
stituti-  
on. Ubi  
eadem  
est ratio,  
eadem  
est juris  
disposi-  
tio. go.*

As to Conquest making way for both. I know no solid  
Objection against such captivating Light, but one, *viz.*  
There was a necessity that these Conventions should have  
had (not only this Inherent Power of their own, and the  
next Princes Co-incident consent: but also) all power  
X. J. could, as yet, pretend; joyned to, and consolidate  
with, theirs: that so, there being *concurfus plenitudo om-  
nium potestatum* in them, their Declaratorie-Statutorie  
power

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Power ( as Lawiers speak ) might unappealably and uncontroversibly determine the foresaid matters. Resp. The Estates had ( by an admirable Providence in the Right, as well as Fast, of this Revolution; to stop the scruples of all ) such an *Extraordinary Power* : which the following Discourse does demonstrate by this Deduction. All K. J's. yet remaining, right and power did accrue to the (then) Prince as the Effect of K. J's being Conquered in a just and Solemn War, and thereafter was transferred by the Conqueror to the People; so that they were ( pro tempore and as to K. J. ) free and Independent States: Whereupon, having Paramount and ( to K. J. ) unsubsordinate power, they declared the Throne's Vacancy of him, and W. and M. King and Queen: which ( since they [ if anxious of final Ruine ] might have Re-entred under K. J. ) is, what we understand by Right of choosing the time of the Heirs succeeding.

The Honour assigned a Superior, Patron, and Judge, even after Refutation of their Rights, requires a greater Respect to the Sublimer Character of an once Crowned Head from the worst bred Pen: Wherefore nothing shall be Remembranced of the late K. J. but Notorious and unconcealable Fact; which himself esteemed and esteems ( as in *Bonum Ecclesia* ) his greatest Glory; and in which, we have the deepest sorrow, he was, and is, misled.

The Jesuits being of such Admirable Wit, and great power in all Corners ( by the Art [ in once enslaving the Souls ] of being Masters of the Bodies and Estates of Subjects ) and knowing the reclused Secrets ( because Confessors also ) of Neighbouring Princes: it is no wonder that they became the Poles whereon, the Cruel Zeal and boundless Ambition of aspiring Monarchs, should turn over their Subjects, and ( once possessing that Strength ) their Neighbours. Hence, by their Execrable Counsels, Religion and Liberty lost, since the last Age, more than half ground and so become Northern indeed ( being utterly destroyed in *Hungaria, Bohemia, Austria, Silesia, Syria, &c.* *Polonia, France, the New Conquests, and Piedmont* ) before Popery and Slavery durst advance bare-facedly ( knowing, the difficulty, of old ) to attacke Britain, as the Bulwark of what remained unconquered. These Monsters ( having first ruined the two branches of *Austria*, and then, almost that of *Bourbons*, in pursuit of bringing an universal thraldom on Europe ) pitched on the late K. J. as the Rising Sun of their Hopes to ( in conjunction with *France*, from whom Civil Interest had broke off all others ) repair their former *Credit* in politic, and perfect the

great

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greatest Work in Religion. *Britain*, therefore, must be first won; and the Stratagems were really exquisite. For,

It is well known how powerful a party the vast riches of the (then) Dr. of Y. and his Religion; and the French gold, had purchas'd to him; whereby he became (*præsentis terminus*) Author of the *Actings*; in the end of *Charles*'s Reign. *Protestant* plots were forged, to drown the noise of the *Papish*, and cut off the most eminent Heads, who refused to bow to *Baal*; Parliaments dissolved; that Court-criminals might escape Justice: Penal Laws against *Protestants*, even, stretched, that we, being set against, might destroy one another, and the next Reign appear auspicious: *Protestants* abroad endeavour'd (in combination with *France*) to be ruin'd; that our assistance from thence, and the Northern *Heresie*, might be cut off at one stroke; to that effect, Divisions at home and abroad cunningly fomented, that, *dum singuli pugnarent, omnes victi*; And mercenary pens set at work to prepare our minds for that Non-resistance so necessary for subverting all Religions and Civil Rights here and elsewhere, &c.

Such was the preparative Prologue of *K. J's* reign. The French Original necessarily required to, throw off his Legal power (as altogether useless) and usurp, in its vacant place, an Arbitrary power (as Absolutely necessary) to introduce popery and Slavery: The Actual Exercise and Effects of which power to the destruction of our Souls, Bodies, Lives, and Estates, (good patriots being cut off for opposing it, and their goods necessary for maintaining it) is the only Scene we shall view in this Tragedie.

Our Souls were ensnared; by the vigilant Siege of priests and Jesuits let loose on our unfenced and exposed Religion: by illegal Oaths: by Denunciations, not only to be turned out of all trusts if we betrayed not our Conscience and Countrey; but also (Intimation) by certain Experience that we should lose Lives and Fortunes if (remaining *Protestants*) we had any Action Criminal or Civil with a *Papish* Adversary: by Ecclesiastical Commissioners enforcing the reading *K. J's* Declaration against duty and perturbation: by sending young Noblemen and Gentlemen Abroad to be bred *Papists*; and perverting all Ranks with the baits of Countenance, Preferments, and pensions, &c. Our Bodies were involved and Lives exposed, by Arbitrary Requisition of Obedience without Reserve: by an encroaching Privy Council: by illegal Imprisonments: by standing Forces in time of Peace, who acted the greatest Barbarities, without any Legal Warrant: by (at the same time,) disarming *Protestants*; and Summarily illegal Tryals; and illegal Tortures; and

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by inspicieing, (even Legal) Criminal Judicatures to give the horridett Sentences, &c. Our Estates were invaded: by subverting the Charters of Burrows: by Free Quarters; by illegal Taxes; personal protections; and exorbitant Fines: by Dispensing with our Laws (our great property and Birth-right:) by Ecclesiastical Commissions, whole Effect and Design we saw in the Bishop of London and Magdalen Collegde (turned out of their Free-holds) and might have seen in all the not complying Clergy of England: by over-ruling Civil Judges (ad Bene placitum) with the uncontrollable Authority of great Ministers, or private Letters, &c. All directly contrary, and in open Hostility, to most clear and known Laws.

It had been a hard pull to have come this length, if the two remaining parts of the Example had not been copied, viz. As to Parliaments; and Dissimulation. Therefore Parliaments (the great Fence of all that is Ours) were broke down (by being discontinued; and at last [by, in effect, excluding the Burrows and corrupting and terrifieing other Members, yea making Legal Elections impossible] to be totally Subverted) and we were soothed by the Solemnest Oaths and Declarations for Religious and Civil Liberty; (as Eva by the fatal fair Apple, or, thereafter sacrificed Guests, by being invited to a Marriage:) Thereby allowing us (a while as yet) to judge the Substantiation, by the outward Species; but intending (as is too evident since) after kissing, to thrust us under the fifth Ribb\*.

\* If any be so ignorant or impudent to aske Probation for these things so notorious plots: or thence Law; Semel malus semper malus in eodem genere Malitia: or finally Logick; for if scarce 4-years tate fac- Reign did sack us to such a State, what (a majori) would ti; it is 8th, & an Immortal popish Successor have done? if the (then) answered: P. of Orange had not delivered us: since all being asked many of under the protection of, the French Allie; strong standing them were Armies; and professed or disguised papists, or villanous explicitly or impliedly, acknowledged by K. J. himself; and most of them by his Friends (sic habemus confidentes reos) and all of them proven per Nubem Testium (viz. The whole Estates) tho' two be sufficient to establish all truth. The other causes that are kepted up and not proven by Witnesses (for reasons you shall know of hereafter) were Snatoriz tantum; wherefore caniz sufficientier, Justificz, were only published, and only founded on, in the (then) Prince's Declarations. and

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and Mercenary Protestants (as many as could be had being absolute Masters of all Ecclesiastical, Civil and Military powers; could meet with no controul (even of safe petitioning) from a headless multitude, but *præces & lacrymæ*.

The remaining (True) Church, and (whole) State Europe being, thus, like a Ship, which sailed, and would have sunk (Britain once lacked) together: and an Enemy, which undermined on our side, and the flame taking hold on this Rafter, would, in totum, Up: above all; we being, the (then) P's Brethren and Neighbours (to be loved and helped as himself) and sick and in prison (to be visited by him:) if he had not heard such joynt groans: incumbent Evils and impendent dangers, he had been less excusable than the two Helter's themselves; as the voluntary Spectators of the Roman Sword-plays were more Barbarous than the (by Zeal and Ambition) constrained Actors. But Piety commands that the Church \* of GOD be maintained; and Justice requires that Destroyers of Common-wealths be compelled to Reason; and Charity challenges the Right of relieving and restoring the Oppressed: and in case of final inexorable necessity; it is lawful for a Constantine (requested by the Roman People) even to expel a Maxentius; though it be Criminal in a Personna to bring back a Tarquinus.

\* This is not, defending (with Arms) the Spiritual profession (for it

cannot be ruined:) but protecting the Temporal Professors, from being therefore, murdered. Hence, Christian Princes, after swearing (at the Coronation) to maintain the Church; brandish their Sword S: N: E: an W: which insinuates that there is no Region exempted from their care (for the Unity of the Church admits no Division, or Appropriation to one, in Extraordinary Dangers. This hath been decided solemnly twice, by the whole Christian World: viz: First, by the Council of Nice appointing the Indictions each 15. years to begin in October (which may be the date of our Liberty, also) on the day of Maxentius's being overcome by Constantine. (Onuph: Mercat: Hotom:) 2. By the Wars of the Holy Land; wherein so many (even Princes) dyed, and exhausted their Treasuries. Where ever, therefore, there is Truth in what is asserted; it cannot be said to be done on any pretext whatsoever, for (sincere) intention, and (feigned) Pretension are, as different, and inconsistent in the same Subject, as Fauntome, and Body, Ingenuity and Hypocrisy. This is the Natural signification of *prætextus*, i. e. *præ-velo*; *præterendo*, i. e. *ante-tendens*; *prætextum*, dicitur, illud Velamen quo moveri aliquis videtur ad aliquid agendum, cum tamen alia Causa moveatur (Calep: in dicti:) hinc (Suet. in Cæsar:) & *prætextum* quidem illi civilium armorum hoc fuit, cautas autem alias fuisse opinantur; ut Cicero [per *prætextum*] exprimit [per *Simulationem*:] So Paul distinguishes, in saying, Whether in Pretence or Truth; and our Acts a

par

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Parliament, especially of Char: 2d: (optimi interpretes what is imported thereby in the Test; ) pretended Authority, &c. And the French, pretendue Reformé. Hence, since the Facts expressed and founded on by K: William, and the Subjects are ( to the World, and each Man's private conscience ) perspicuous Truths, they proceeded on no pretexts: But he, as Prince, adopted Sons (as Pharaoh's Daughter the exposed Moses) and as King protesteth Subjects; as True Defender of the Apostolick Faith.

Passive Obedience hath never got ( *de facto*, at least ) a larger Field than we have given it; But now we go to allow the highest Prerogatives that ever ( *de jure* ) it could pretend to.

THESIS



## T H E S I S I.

The Enterprize of the (then) P. of Orange, ( a Supreme ) by his Army (Forreigners) was a just War, both as to its Cause and Solemnities, or Matter and Form ; and so must have all the Effects such hath had in all Ages.

## P R O B A T I O N.

1. THIS Enterprize, as intended to be, is really was a War; For there are only three States of any Nation, viz. War, Truce and Peace: And so we have no other Word but that of War to express the Nature of this Attempt, since it was neither Truce nor Peace. "War is the State of two ( bellum quasi "duellum ) or more Princes contending by force and violence of Arms; *Hofles non solum enistimantur qui jam "navali aut terrestri prætio certant, sed pro talibus habendi & qui Machinas admovent portibus aut manibus; "etiam si nondum pugnam incipiunt;* says Philo de Legib. The Effects of War by a numerous Army, after denunciation, cannot be called the time of peace. The Sword hanging over the head; Acts of Hostility ( tho indeed few ) on Persons, Cities, and Goods; taking and Garrisoning of most places, are no ways justifiable but in War: Since the way of Fact ( without form of Process ) would be an unlawful, violent intrusion, if it were not a lawful War; and ( as K: J: calls it ) in some sense a publick invasion. " *Hofles sunt qui nobis "aut quibus nos publice bellum decernimus; cæteri præ- "dones aut latrones sunt.* \* In a word the mouth of a Cannon portends the pleading a cause by the Law of Arms †.

Grotius.

\* Hofles  
ff: vi: s:  
tv: Zing:  
in Grot:  
p: 531:

2. To preserve neighbouring Subjects from ruin in their Religion, Lives, Fortunes, and Liberties,

B

and

and procure re-establishment of their torn Laws and Privileges ; with competent security for the Safety of all these, is a pious and most just *cause of War*. For After instituting *Civil Societies* there is a special and unquarrellable *jus quæsitum* to the Rectors thereof, over their respective Subjects ; where these Subjects do by real transgression merit suffering, or the case is dubious ; And to this effect only was ordained the distribution of Empires. But if the injuries be most manifest ( as these of *Busris*, *Phalaris*, & c. ) the right of *Humane help* by Princes not-subject against such oppressing Governours is not precluded by this distribution of Governments. For it is the nature of *civil Societies*, that every one hath entered therein for his own benefite ; and so this kindly protection of a neighbouring Prince so necessarily beneficial to us, is not against the nature of Society ; The advantage of this being also common to all Princes themselves, since he who ( attacked ) is now burdened, at another occasion ( when Attacquer ) is thereby sublevate. Yea, this is not only, not prohibited ( there being no intrinsic or moral pravity therein ) but is also so far a positive Right belonging to Princes, that ( each fearing his neighbour should use it ) they think it necessary to exclude it in most treaties, ( with this clause *causa justa aut injusta* ) as Bodinus observes \*. “ There is one great *Family and Society* of Mankind, in which, *Reges, non unius sibi creditæ gentis habent rationem ; sed totius humani generis* † : even as ( in *Ecclesia turbata* at least ) he who is not Universal Pastor of the Church, is Pastor of the Universal Church, and hath a care and wareth ( with his Spiritual Armour ) accordingly \* : or as when a Master of a ship, Father of a Family, or Husband of a Wife, ( all Hieroglyphicks of a Kingdom ) is hindered by the adjacent neighbour ( having no more Jurisdiction over him than one Prince over another ) from irreparably injuring his Mariners, Servants, or Spouse ;

\* p m.

954.

† Themist.

in Orat :

ad Valen :

\* Constat :

Clem

Univer-

salis Ec-

clesia

curam ac-

cepisse.

Spouse; there is no Delict committed against, but favour done to the *Maritime, æconomical, and Mari-  
tal Governments*. And a King hath no more Right to  
ruine his Subjects against Law, then these (consti-  
tute also in a ruling Capacity) to destroy theirs,  
and so may be equally gainstod by his charitable  
neighbour.

3. To profite neighbouring Subjects in what a  
Prince can, is not only Lawful but also Duty by the  
Natural Law of good Offices; and so what we see  
performed with so much praise, could not be omit-  
ted without blame. There is nothing more service-  
able to Man then Man, for which also he is born; says  
*Seneca*: And so he should answer that end. Bruts  
commonly help their fellows: mercy and propensi-  
on to Advantage others begins even in Infants; which  
must proceed in both from Natural instinct. Many  
are the Obligations betwixt Men engaging to Mutual  
Aid; for we are Cousins by Nature (says the Lawy-  
ers) as come all of one Parent; whence *Solon* pro-  
nounceth the State happy where every one thinketh  
"an others injury, his own: which holds equally in the great  
"state of Mankind as *Grotius* \* concludeth, *Latissime* *Grotius*  
"patens est hominum inter se Conjunctio qua vel sola ad 2. 25. 6.  
"opem ferendam sufficit. But the Conjunction of the  
"same Faith also, addeth to, and maketh Indispen-  
"sible this Natural Bond of Amity; For we ought  
"to lay down our Lives for the Brethren: And let us  
"not love in word neither in tongue but in deed \*. *Natura* \* *John 13.*  
"habemus ut indignationem nostram jungamus cum iis 16, 18.  
"qui male tractati sunt, etiamsi ad nos nulla pars injurie  
"pervenerit, says *Chrysostom* \*. And Princes, say- \* *Chryso.*  
"eth *Tacitus* are like Gods; and so hear the Prayers of 13. de  
"Supplicants if they be just: *Et Fortitudo quæ defenais* *Stat.*  
"infirmos plena *Justitia* est; as *Ambrose* hath it \*. \* *Ambr.*  
Whence it appears, that the Princes preferring the 1. 1. Off.  
safety of an innocent Multitude to his Own was the C. 5.  
highest Act of Christian Charity; and as the Injurie

was more signal to many than one; So also the Beneficence. In respect of all which, the great Bodinus (speaking of this Question) does in reason conclude *De pulcherrimis omnibus factis Nullum illustrius est, quam vitam, famam, ac fortunas innocentium ab injuria potestiorum defendere, quando judiciorum aditus omnes obfidentur.*

4. Injuria is the just cause of War; *Iniquitas patitis ad versa justa bella ingeris* \*. And so there are as many Fountains of just publick War as of Legal private Actions. Action is granted for an Injury already done, or not done but justly feared. To evite a wrong justly feared but not actually done, we seek *Cautio de non offendendo; damni infecti; interdita vis fiat.* If the dammage be already done, we require it to be Repaired or Punished. Even so the three (of which one would suffice \*) just causes of War, viz.

\* *Grotius* Defence of what we yet have; recovery of what is lost; 2.1. 2. 2. and Punishment of our Oppressors are causes most justifying to this Pious War. For there are only two wayes to obtain Right from the Refractory, viz. By Actions and Accusations betwixt Subjects: And because these fail (there being no *Terrestrial common Judge*) War betwixt *Soveraigns*; "*Bellum naturale incipit ubi judicia deficiunt* \*". And so since Natu-

\* *Grotius* rally every man is Executer not only of his own right, prol. 5. but also of an other's: and in the Natural state (where & L. 2. none was subject to his fellow, as now no Prince is 3. 2. subject to his) every man might vindicate Crimes \*. \* *Gon.* 4. The Prince had good right to espouse our Interest, 14. 16. and make our injuries his own, and so make War to redress them. *Grotius.*

\* *De leg.* 4. "hinders not Violence offered to an other; *Et Tullius* us, *qui non defendit nec obfistit, spoteft, injuria, tam* "est in vitio quam si parentes, aut patriam, aut socios, De- "ferat: So *Euripides*, *præbens saxa Perfugium feris, a-* "raque famulis, uribus pressis malo tutamen Urbes: *Ac* "Seneca, *Succentram Parisiuro sed ut ipse non peream; nisi*

*salvus ero magna rei merces.* Which last was the Glorious Resolution of the Prince, viz. to carry thorow this great Work or perish in the Attempt.

Tho, in extreamest necessity it were Criminal in Subjects to demand these things by Arms, yet it remains most Lawful in a Prince not subject to do it for them: Since when there is a Personal ( not real ) Impediment, to any Action; that which is not lawful to one is lawful to another, if the matter be such as one may profit another in. So a Tutor pursues for his Pupil who hath no *personam standi in judicio*; and a Defensor is admitted ( even without a Mandate ) for one who is absent and cannot defend himself. The Impediment which prohibits a Subject to resist comes not from the thing it self, Cause, or Matter, for that ( viz. Defence, Recovery, and Punishment ) is materially the same in subject and not subject: But from his Personal quality of Allegiance; which being no way in, could be no obstacle to, the Person and Actions of his Highness.

5. Not only doth this Right as Adopted afford a just cause of War: But even the Prejudice done to Rights properly the Princes own. And that as he is Head of the *Protestant Interest*, and principal Pillar of that ( then much endangered ) Religion: As ( being so nearly of the Royal Blood ) he is thence concerned in the future welfare of these Nations: And finally as being obliged to hinder any Intrusion on his own or Princess's Rights, till the reality of the Birth were sufficiently cleared. In respect of all which, we might have exclaimed ( in case of Refusal ) with ( juster reason then ) the *Campani* to the *Romans*, *Quandoquidem nostra tueri adversus vim atque, injuriam non valitis justa vi; vestra certe Defenditis.* For,

Firstly, What Wounds the Protestants received in the Profession ( by Law established ) of their Religion, pierced his Highness thorow the sides; and so he was engaged, and had good right to cure them.

For

\* I Cor. "For St. Paul teacheth, that all the Members of that one  
 12. 18. "Body, being many are one Body. And God hath set the

"Members every one of them in the Body, as it hath  
 "pleased him. And whether one Member suffer, all the  
 "Members suffer with it. They must not love in word on-  
 "ly but in deed, and shew their Faith and Charity by their  
 "Works: as is above remarked. Whence this effect

Actually feeling one another's griefs and evils pertaining  
 not only to each single Person, but also to a People  
 as such, and Princes *quá* Princes; who should serve  
 Christ not for themselves (in private) only; but also  
 (as to publick) for the Power which they have in their  
 hands. When a house is on fire, the Insurer (espe-  
 cially) is bound to run to all Rooms where he may  
 quench it: And when a Laik stricketh up in a Ship,  
 he who is interested in the Cargo will (without, yet  
 against, the Master's Invitation) labour to stop it.  
 And so there being a great Family and Society not  
 only of Mankind, but also more especially of Pro-  
 flants; in it "Religio contaminata ad omnium perniciem

\* L. 4. C. "injuriarum": And consequently more particularly to  
 deheret. the injuring of his Highness. And they who invited  
 him (at that time no Enemy to K. J.) to use his Right  
 did no more then what is affirmed by Augustin

† Augus. "Maximianus Episcopus vagiensis Auxilium petiit ab  
 Epist. 50 "imperatore Christiano contra hostes Ecclesie; non tam su-  
 "ulciscendi causa, quam tuenda Ecclesie sibi creduitur.  
 "To which end he used first all Peaceable Instances,  
 and these not prevailing, this just War.

Rosenth.

Struv.

Pist.

Franzk.

Lud'o.

Zaf in

Fendis.

Mans.

Lucub.

Vatic.

Tom. 2.

Lib. 23.

Tit. 20.

3. 10.

Secondly, In an Hereditary Legal, (not Despo-  
 tick and Patrimonial) Monarchy, the Heir, succeeds  
 the Father (or other Predecessor) not to him; is not  
 necessarily *Heres Predecessoris*, but *Heres Regni* by ver-  
 tue of the first Contract, Law, and Custome: By  
 right proper to himself, not Derivative from his An-  
 teecessor: Even as in a proper *Feu* (where the true Feu-  
 dal Law lives) the Kinsman succeedeth by strength of  
 the Original Investiture: or as a Substitute, in a

commiss.

*commiss* or *entail*, succeedeth rather to the Testator, then to the preceeding Institute. When it is certain who are Heirs to a Kingdom, *Simul atque existere caperunt jus proprium eis quassum est ex Lege*† (As the Roman Law affirms, that the Unemancipate Child is "*Pi-* 7. 26.  
*venie Patre quasi rerum paternarum Dominus*; and the Patriarch's Servant calls his Master's Heir, Lord; And Heirs of a Kingdom have the same Right thō Emancipate, or never in *Potestate* (*Heres quasi herus*) from the Law it self which introduced that difference) Whence there Persons, Rights, and Eminencies are by Law specially secured. And so K: J's: even *plenitudo potestatis* could not deprive them (since not the meanest Subject) of the least present or future Emolument of this their Property, which was not in his Disposall. But if the Subjects were permitted (by the Prince) to be ruined in all their Religious and Civil rights, and the interposed Child tamely suffered to exclude (without Cognition of the cause) their Highness's Birth-Rights: It were in effect, Depriving them not only of the Emoluments, but also Substance of their Properties; being not to succeed at all but Disinherited, or at most to succeed only to wretched Kingdoms. Wherefore the Prince (for himself, and as bound to defend and secure his Princess's Rights whether Present or Future, ) had a just title to prevent all Invasions thereon by obtaining a Legal Disquisition of, and then Caution for them, which was all he ( fruitlessly ) demanded to be done in Parliament. So the Substitute, in a *Fidei commissum in diem*, may Legally seek Caution (yea force Restitution before the day, if the *Fiduciare* egregiously abuse the Heretage. Much more if he, in effect, (*quantum in se est*, alienate the whole *extra Familiam*) when it is a *Familiary Fidei commissum*. The Caution decerned to Private persons runs, *quod fiduciarii velint die veniente, aut conditione existente, aut si in judicio succumbant fide-*  
*commissa præstare integra* \*: And a Father must secure his

*Peregrin.*  
*Fid. Arr.*  
 3. N. 29.  
 & Arr.  
 46. N. 10:  
*Fusar. Q.*  
 512. N.  
 1.  
 & Q. 513  
*Kempfeld*  
*de Fid.*  
*Fam. Cas.*  
 11. N.  
 386. Sq.  
 Q.

\* Tit. F.  
ut Fid.  
Ca. Cav.  
L. 7. F.  
Eod.

his Son *hypotheca rerum suarum* \*. Consequently no less could be allowed to a Prince, ( considering the matters of Fact in the Memorial ) then would, to the meanest of Subjects; since his interest ( both evidently lesed, and at most controverted ) was greater and more inviolable than theirs can pretend to be.

6. The Justness of a War for punishing Offences deserves a more strict enquiry: since the very making war on K. 7. is ( in part ) a punishment. Nature hath not, determined, who shall exact punishment for Malefices; only that, it were most convenient it should be a Superior: but he who does evil, *eo ipso* detracts and makes himself Inferiour to one otherways his Equal \*. Hence sayeth Democritus, "*Natura evenit melior ut sequiori imperes*. This Chastisement is more specially recommended to near Relations because of their presumed piety in Correction \*. Plutarch holds, *That a good Man is designed by Nature, a perpetual Magistrate, for by the very Law of Nature, he hath a Principality who does justly*. Whence the Learned Hugo \*, *Sciendum quoque, est Reges, aut qui parvegibus jus obtinent, jus habere penas poscendi, non tantum ob injurias in se commissas, sed & ob eas quae ipsos peculiariter non tangunt; sed in quibusvis personis jus naturae aut Gentium immaniter violentibus*. But the violating our Propertie in our Goods, Liberties, and Laws is a violation of the Law of Nature and Nations; For, *Natura non patitur ut aliorum spoliis, nostras facultates, copias, opes augeamus*, sayes Cicero; And the same Grotius \*, *Ubi enim dominium, aut jus aliud, alicui legitimo modo partum est, id ne ei auferatur, juris est naturalis*. And so this Delict ( in the name of Humane Society thereby violated ) *orbis viribus expiari debuit*, as Justin expresseth †. Yea, its not only more Noble, but Honest and convenient for a Prince to revenge an others, then his own injuries; because the moderation of his proper grief is more difficult: So the Hebrew Interpreters observe, that the

\* Thom.  
2. 2. 2.  
64. Art.  
1. 161.  
Cajetan.  
\* Tit. C.  
de emend.  
propinq.

\* Grotius  
2. 20. 40.

\* Grotius  
2. 14. 2.

† Justin.  
Lib. 8.



the Kinsman was permitted to exact Talion for his Friends blood even by private Authority; which was no wayes allowed to the lesed himself (when perhaps, wounded) and that for the same reason. From all which it appears that, the power of punishing is not an effect, proper to civil Jurisdiction; but comes from the Law of Nature: otherways no enemy would have right of punishing an enemy; which Right, notwithstanding, the use of all Nations does confirm. Whence it necessarily follows, that this war (as Punitive of K. J.) was most Just: Since the Princes power over him flows not "*Ex ulla Jurisdictione Civili, sed ex illo jure Naturali quod & ante institutas Civitates fuit; & nunc etiam viget, quibus in locis homines Juris Civili non sunt Subjecti*"\*: And, *Ut quis Ultionem sumat ab eo qui peccavit, satis est ut ipse, & qui peccavit subditus non sit* †.

\* Grot.  
I. 3. 23.  
5.

7. This war which had so just grounds was Denounced (by the Prince's Declarations) much as that of Camillus against the Gauls; *Omnia quæ Defendi, repetique, & Ulcisci fas sit*: Or as in the Feciale Formulae, *quas res dederint, nec solverunt, nec fecerunt, quas res dari, fieri, solvi oportuit: ego vos restor populum illum Injustum, nec jus persolvere*. His Declarations were altogether a sufficient Denunciation: For, the Reason of making Declarations of War, and its cause publick, is, that all Mankind may Cognosce on, and be perswaded of, the Justice of its cause: and that it may be certainly constant, it is undertaken by Authority of a Supreme Power, (*non privato ausu*) as Grotius and Gentilis testifie\*. The first being necessary to let the World (yea Enemy himself, and his Party) know the Authors Integrity; And the second; to infer the peculiar effects which have not place in a war by, or against Subjects or Pirates. Declaration is pure, or Conditional. Pure Denunciation is, when a Delict is simply to be punished; without admission of Repentance. since *Penitendo non, nocens*

\* Grot.  
3: 1: 11:  
Alber:  
Gentil.  
Lib: 13  
C: 2:

Vid. †.  
Decla:  
and the  
publick  
papers.  
\* Liv.  
Lib. 3.

\* Vid.  
Marcel.  
Donat.  
in Liv.  
Lib. 8.  
P. 18.  
\* Grof.  
3. I. 13.

† See the  
Transac-  
tions about  
the time  
of Phagel  
& Stew-  
arts Let-  
ters.  
\* Vid. 2.  
Decla.

*nocens esse, definit*: But such was not the Prince's who before, and after Denunciation, did incessantly request K. J. to repent *resituendo ablatum*, ( property or safety ) as a free Parliament would Advise; and he would proceed no further †. Conditional Denunciation is exemplified in *Livius* \*, "*Eam se injuriam, nisi ab ipsis qui fecerint, dematur, ipsos omni vi, depulsum esse*": And of this nature was the Prince's, viz. On Condition of granting his Demands in Parliament; War and its effects were wholly to cease, and all that was done in the Interim ( as necessary for, inducing K. J. to assent, the Prince's own Defence ( as it is only a defensive war, tho to prevent and divert a Prince, enter his Enemies Countrey, on condition of security of not being offended ) and for protecting the Subjects till Grievances were redressed ) to be restored in Integrum. Repetition preceeding Indiction it self ( for it differs therefrom \* ) and the Solemnities of Indiction being of civil Institution ( not the Law of Nations ) "*Indictio nullum post se tempus, iure Gentium, requirit* \*". Hence the third Punick War, "*Simul indictum simul illatum est*": And so did Cyrus to the Armenian: and Servius affirms ( speaking of Denunciation ) "*Pater Patratus jaciebat hastam, qua res erat pugnae principium tum certare odiis tum res rapuisse licebis*". Consequently there needed no delays after once Declaring at the borders of the Enemies Territory: Since that also satisfies the foresaid reason of Declarations.

From which Deduction it is evident that the Prince did not only lawfully declare this war, but also did not use therein, the rigour of the Law of Nations. For besides the pressing instances made ( before † any design of war ) to remove the causes thereof: there were no Acts of Hostility till his just demands ( as to the Principal, at least ) were a second time rejected; and thereon Declaration made also \*. "*Irrisatio animo cum ea prima fuit, postea justum bellum decretis civi-*

*ratum,*

*factum ulve indicendo factum*, as *Livius* in an otces case. After which second denial and the Prin coming to England, a third time competent for convenient granting was conceded; but *K. J.* by turning his back, at once confirmed the former, and shew'd the third refusal. So much had the Prince the Law of God in his Eyes \*, "When thou comest nigh to a City "to fight against it, then proclaim peace unto it. And if "it will make no peace with thee, but will make war a- "gainst thee, then thou shalt besiege it. *Salustius* sayeth, "Sapientes pacis causa bellum gerunt, & laborem spe "oii sustentant: Cic. 10 \*, *Bellum ita suscipiatur, ut "nihil aliud nisi pax quasi a videatur*; and e'fewhere †, "Sic suscipienda bella sunt ut eam causam ut sine Injuria "in pace vivatur. All wh. ch dictats of Reason Con- centred in His Highness's Conduct.

\* Deut.  
20. 10. 11.

\* Nicom:  
C. 7.  
† De Of.  
1.

8. Finally, The Prince followed the greatest Ex- amples ( Reason and use making a Law of Nations ) many of which are not near so justifiable as his High- ness's. So *Constantine* took Arms, against *Maxentius* and *Licinius* for oppressing the Christians then se- cured by Laws: And abrogated all the unjust Edicts and Rescripts of *Licinius* \*: As other Christian Em- perors, against the *Persians*, for Injuries to Christian Subjects. *Theodosius* and *Arcadius* having killed *Ma- ximus* made this Law, *Quæ Tyrannus contra jus rescrip- si non valere præcipimus* †. *David* sought and got pro- tection of the *Philistines*. *Moses* freed the *Israelites* of the *Egyptian* bondage. Which being by God's own Will, must be lawful in it self; since he willeth nothing un- lawful in its own nature \*. The *Maccabees* are prais- ed by *Ambrose* †, that even on the Sabbath, they re- venged the Injuries done to their innocent Brethren. "The Governours of *Sodom* Rebelled against *Chedorla- omer* (whom they had long served) yet *Abraham* "did assist and protect his Kinsman *Lot* (who was al- "so an Inhabitant) and them against their oppressing "Soveraigu: Where Observe; *Melchisedeck* says,

\* Li: C.  
*Theod. d.*  
*int: iis*  
*quæ sub*  
*tyran.*

† Li: C.  
*Theod. d.*  
*infirma*  
*dis quæ*  
*sub Tyr.*  
*L: valeat*  
*cod.*

\* Vid:  
*Syn. Cris.*  
*ibid. con-*  
*cerning*  
*the Jew-*  
*els.*

† *Ambro-*  
*de off.*  
*Lib. 1: C.*

"Blessed 40.

Ge. 1st  
14. 20.

\* Blessed be the most high GOD which hath delivered (ibine)  
\* enemies into ibine hands. So Hercules was Deified for  
freeing the World of Tyrannous Monsters: in which  
the just and vertuous Romans did goe beyond all  
others. Dio, Timoleon, Aratus, Harmodius, Aristot-  
gison, Aratus, all imitators of Hercules, are exalted  
(by the best Writers) for being *Tirannorum interfello-  
res & Magistri*. Ludovick XII. of France took the Pa-  
trocinie of the Duke of Ferrara and other Subjects,  
(against Julius II.) whom also his Nephew Henry III.  
with Force and Treasure, protected (against Julius  
III.) Which Henry likewise, at the same time, de-  
fended the German Liberty against Charles. Gustavus  
Adolphus is in our Fathers Memories: and Luther had  
German Princes to protect him against the fury of the  
Emperor. If the Pope's decision will hold now a days  
we find him call in Pepinus against the then establish-  
ed Lombards: And to enumerate all instances of that  
nature in after Ages, would fill a Volume. Lastly  
(in firmance of the former) his Holiness, by mediati-  
on of Philip; II. ) made the Duke of Guise Head of  
the Catholick League and Protector of that Faith a-  
gainst Henry III. and IV. of France: Only for Cold-  
ness and Tolleration in the one, and simple being  
Protestant (and thereby Popery endangered) in the o-  
ther: But it is a Canon of Rome it self, *Quod quisque  
juris in alium statuerit, ipse eodem jure uti debet*. The  
Glorious Queen Elizabeth's Assistance of the Protestants  
in France, Scotland, Germany, and the Spanish Nether-  
lands; and King James 6th's tracing her happy foot-  
steps, (both most Pious, as Christians, and zealous  
of the Royal Dignity; as Princes,) carrieth greater  
then ordinary weight to satisfie, that this War was  
just and Religious.

THESIS

## T H E S I S I I.

*Hence by the Law of Nations, the Prince's Title to the Regal Right was Legal, as the Effect of K. James ( not the Kingdoms ) being Vanquished in a Solemn War: Tho be had gone no further.*

### P R O B A T I O N.

**E**Mpire or a Regal Right is acquired ( in a just and Solemn War ) to the Victor, two wayes, viz. Only, and as much as the Conquered King had it himself; or moreover, all the Right that was both in King and People. This last, ( called Absolute Conquest of a Kingdom ) when the quarrel is against both King and Subjects, pertains not to our case or enquiry: As the Prince truly declared that he had no intention of Conquering the Nation\*. Conquest of the King only and what is his ( the Kingdom, and what is the Subject's, remaining untouched ) falls out, when the war is made for, ( not against ) them; against the King only: and so the Conqueror ( as an Heir ) succeeds *Tantum in universum jus quod Antecessor habuit*. For; as the goods and Rights of each single person are acquired to him who does subjugate the owner; so are also those of a King subacted. Victory is *Æquiparate* to Dedition; For " Dedition ( say the Lawyers ) gives over willingly, what Victory would extort by Force: But in Dedition, *Omnia ei qui armis plus potest, dedita sunt*; Whence all must be acquired to the Victor in Victory. Hence all Incorporeal Rights

\* Vid 2.  
Decla.

Rights of the Vanquished become the Victor's also: So the Romans ( Alba conquered ) did vindicate, *Quæ Albanorum jura fuerant* \*. The Conqueror may acquire this Right without any ( at least express ) consent of the People; so *Hornius* † ( a great Royalist, and for the Divine right of Monarchy: ) As soon, says " he, as GOD gives Victory, he confers on the Victor in-  
 " violable Majesty. If this were not admitted; Contr-  
 " verses about Kingdoms, and Wars and Desolations there-  
 " on should be Immortal ( which is repugnant to the common  
 " sense of Nations ) for many deny the Subjects acquies-  
 " cence, or prescription, to prejudice the Sovereign. A  
 Conqueror of a Kingdom may alienate it as his Patri-  
 mony, but a Conqueror of a King only, cannot: Since he hath no more Right than the King he suc-  
 ceeds to; as an heir hath no more than his predecess-  
 or: so *Cyrus* desired the *Assyrians* to be of good cou-  
 rage, their Lot should be better then it was for-  
 merly: their Houses, Lands, right over Wives and  
 Children should remain untouched; their King only  
 changed \*. Even as a friend, redeeming a Captive,  
 acquires *jus pignoris* & *retentionis* in him: and he must  
 serve his Deliverer ( tho [ otherwise as ben formerly ]  
 without any real servitude ) till the Lytron be payed:  
 that being but a small Retribution of the great bene-  
 fit of Liberty: But the Equity is greater in a publick  
 then private Redemption; since both the slavery and  
 delivery is of many †. Hence *Grotius* \*. *Potest autem*  
*" imperium acquiri vel tantum ut est in rege, & tunc in*  
*" ejus duntaxat jus succeditur, non ultra: vel etiam ut*  
*" est in populo. And \*, Justo bello ut alia acquiri possunt,*  
*" ita & jus imperantis in populum; aut jus quod in imperio*  
*" habet ipse populus: So speaking † of a King who hath*  
 only a part of the Supreme Power, and the Senate  
 the other part thereof, " *Potest rex suam imperii par-*  
 " tem belli jure amittere; and, *Imperia armis quat;*  
*Tertullian* affirmeth.

\* Dion.

xii.

Grot. 3.

8. 4. 1. 2.

&amp; 3. 6.

26. &amp; 3.

9. 9. 161.

Zieg.

† Horn.

de Civ.

C. 9. Se.

2. 3. 5.

\* Enoph.

de Instit.

Cyr. Lib.

† C. 34.

Edict.

Car. cal.

Tit. F.

Cap. &amp;

C. de post-

lim.

\* Grotius

3. 8. 1. 3.

\* Grotius

3. 15. 1.

† Grotius

1. 4. 13.

Hence

2. Hence appears how the Regal Right was acquired to the Prince by Conquest of the King's not the Kingdom. For there were only two ways to obtain (in right of so just a war) the things demanded, and oft denied, viz. by force on K. James's person or Estate. Wherefore the Prince (resolving unchangeably to keep his sacred person inviolable) was necessitate to use Execution on his Estate. Whence according to the Law of Nations, he invaded his possessions, defeat tho mostly without blows his Forces; took his Forts, Cities, and Palaces; Finally got himself and whole Interest in his power. But leaving K. J. in Liberty to go about the granting our requests, K. J. left all to the Princes disposal. Then the Princes *jus ad rem* becoming *jus in re*; officers Civil, and most Military, ceased to act in K. J. Name, and as Actors or *Negotiorum gestores* at least possessed in Effect all in the Conqueror's\*. He emitted Writs in his own name; and ordered the States to prevent confusion in the Interim; and was obeyed in all, before any declaration of the Governments: before which also; all even greatest Royalists made their Addresses and Homage to him; which was an material acknowledgment of, and could not be lawful (to a publick Enemy) without the Translation of the Regal Empire from K. J. by such an entire tho bloodless Victory over him. That Victory is most Absolute which is won without (even the Contest of) strokes; and none is more Absolute, then all possess none gainstanding, So K. James leaving all to the Prince for the present, (tho with a mind to be restored in the future) "*Tan-  
tisper, voluit non possidere* (as Lawyers speak Arg. "*L. 17. §. 1. ff. acq. Poss. Si quis eâ mente possessionem tra-  
dit, ut postea ei rei restitatur, desinit possidere*) and in his place the Prince possessed and so acquired.

3. That Empire, which was in the person subdued, is, the natural fruit of Victory; and immediately after victory competent to the Victor: i. e. the wages of

\* *Transit  
possessio,  
si colonus  
altri tra-  
diderit.  
L. 3, Sec.  
9.  
Cap. L.  
33. eod.  
L. 32. S.  
1. L. 25.  
S. 2. de  
acq. poss.*

of War as it is called *Ezech. 29. 18. Seqq: Because they wrought for me, saith the Lord*; is clear from the *Actings*, approved by the *Writers*, of all *Nations* and *Ages*. So *GOD* speaking of a *City expugnant*, after repudiating conditions of *Peace*, ) decerns;  
 \* *Deut. 20. 14.* " *All the spoyle thereof shalt thou take to thy self* \*. And it is said of the two *Tribs* and the half, *And the Hagatits were delivered into their hands because the war was of GOD* (i. e. as it is declared in the foregoing verses) because they put their trust in him; and they dwelt in their *fields* \*. *Jacob* expresseth this right; *Which I took out of the hand of the Amorite with my Sword and with my bow* †. Neither was the taking the *Vanquished's* Spoyle against the *Piety* of *Asa* (the great destroyer of the *Images*, and restorer of the *Laws* of *Juda*) for it is approved in the *Text*. *When the numerous Army of Zera came against him he prayed, O Lord thou art our God let not man prevail against Thee; So they fled, and could not recover, for the fear of the Lord came upon them* \*. &c. And *Abraham* when *Protector* of the *Sodomites*, acquired property of the defeated *Kings* spoyle; else he could not have given, the tenth, meat, or portion, thereof to others. The *Hebrews* used to put immediately, the *Conquered's* *Crown* on the *Conqueror*: For Example on *David* \*: And all these were not *Wars* by any particular direction from *God*, *Sed ex comuni jure Gentium*, as *Criticks* observe on the respective places. *Profane* suffrage goes alongs with *Sacred*: so *Alexander* after the fight at *Gaugamela*, was saluted *King of Asia*: "*Romani quæ Cyphasis fuerant sua dixere lege belli* \*: *cum Odoacrum devictisset* "*ejus quæ fuerant belli jure tenuit* †: *Quo devicto, cum* "*omnia quæ illius fuissent, jure belli Scienci facta sunt* \* and *Bocchus* in *Salust*, ob *regnum tutandum arma* cepisse, nam *Numidia partem unde jugurtham expulserat, jure belli suam factam*. The *Conquest* of *William* the *First* must have been only of *Harald* and his *Partisans* (against whom he pretended title,) and not of *England*.

\* *Deut.*  
20. 14.

\* *Chron.*  
5. 18. Se.

† *Genes.*  
49. 22.

\* *Chron.*  
14.

\* 2 *Sam.*  
12. 30.

\* *Grot.*  
in *Not.*  
ub. *Sup.*  
† *Agath.*  
1. de  
*Theodor.*  
\* *Liv.*  
43.



of England; else his Successors had had Absolute Power, or had not had a good right. From all which we shall conclude with the great *Grotius* \*: *At reges \* Grot:*  
*qui bello solenni victi, regnoque exuti sunt, cum aliis reg-* 2: 13: 2.  
*nibus & jus legandi perdiderunt: So Paulus Emilius* 2.  
 did retain the Ambassadors of Persens who was vanquished by him.

4. This Acquisition is not only Legal in the External Law of Nations, but also most equitable in Internal Justice, which, besides what is already hinted at both in Right and Fact, is farther demonstrated by this Deduction. There is a just cause of Acquisition by the Law of nature, when I acquire, that which was not mine, in place of what is mine, and what is due to me, and for repairing and punishing an injurious fact; from him who detained what is mine, and from whom I cannot obtain what is due to me, and who hath lesed me. For otherways, I could never be satisfied; the bare retention being fruitless and vain, if I have no right to use it. So when my debtor defers to pay, in lieu of my debt, I get, by Judicial Assignment, his Heretages and exaction of punishment is payment of that debt which is due to the Delict. But war among Princes, is like Actions betwixt private men before a Supreme Judge; foregoing instances; and at last, Declaration, like to private Citations; finally entire and absolute Victory, to a Sentence. So that as a Sentence (decerning to me my Adversaries estate, for what is mine, and due to me, and punishment of a bygone Crime, and refractoriness in not giving Caution for the future) *justitiam confert* and is most just: so must also the like Acquisition by Victory. Let us consider the true matter of Fact in the Memorial, and Declarations, and there after; the unpaid expences due to, and unrectified injuries (by Proclamations and Letters) against the Prince himself, the short time *K. James* could, yea, he would not on just conditions, enjoy

the Crown; and its coming to his Children, *Partis* of his own body; finally the difference betwixt this publick affair and private concerns; and we shall find the Reparation less then Equivalent. For he, who cited for one debt of *cautio de damno infecto*, to one person; or for one crime against a single man; is Contumacious; loseth the whole thing from which damage is (on Oath) feared, and whole goods (yea Estate, in Notour Treason) yet he is judg'd, in Internal Justice it felt, from his implied consent, to suffer only the Equivalent. How much more therefore, in our case, where there are many debts, to many persons, damage justly feared to a Multitude, repeated injuries done to three Kingdoms, and that ones too of the highest nature; and a final Contumaciousness to grant redress or security, for the present or future, in any of all these most weighty points.

The we poise this Equivalency Absolutely in the ballance of Civil or Criminal Judgments, we shall perceive its Adequateness to the debts and Delicts. For he that is Contumax, can not appeal; nor he who hath confessed, nor he who hath once assented to stand to the Judgment \* But K. J. did assent to a *Par*:†; confessed partly expressly, partly materially, most of the violations objected \*; and at first and last was Contumax, \* *Non defendere videtur, non tantum qui latitas; sed & "is qui praesens negat se defendere; aut non vult suscipere "Actionem* †: and Consequently cannot appeal, or alledge any inequality. Even as the Merit of a Delict, in the opinion of all Lawyers; is heightened from the cause which moved the Committer; the cause, which should have restrained him; and his *Idoneity* to consider both. Injustice is the greater, the greater damage is interred thereby; when it is consummate; or the nearer it comes to the last Act; that which pre-judges many; and that from which its probable great loss might follow on. If there be joyned to it another vice of, impiety towards Children, inhu-

D. D. ad  
Tit. ff.  
Damm.  
infect.  
& ad Tit.  
req: reis,  
& abs:  
damm.

\* Struv:  
Exer. 50.  
11. Tit.  
ff. de app.  
recip. vel  
non.

† Vid. his  
Proposals  
Dec. 8.  
1688.

This is  
known by  
his publi-  
ck writts  
& deeds.

† L. 51.  
ff. R. 1.

manit

manity to Relations, Ingratitude to Benefactors. If it be frequent and habitual, in a Person of perfect Age, all these Aggravations augment its Atrociousness. Much Bile, great Power, consummate experience, and above all if it be infused by Education, and opinion of Religion, make it the more formidable, and less evitable; and so must be the more Precautioned against. I leave those who know the matters of Fact (1) the Transactions of Court; to make the Application. If there remain any scruple as yet, to the disproportion betwixt the Debts and Delicts of K. J. and their recompence, and satisfaction obtained for them; the famous Royalist Zieglerus\* will solve it: For says he, "*Magis igitur eris ut continetur bellum etiam post acceptam satisfactionem, donec hostis pacis expectat condiciones. Succedit enim in locum pristinum causarum alia nova, quæ est causa periculi vitandi. Siquidem ille adversus quem bellum motum fuit, brevi post tempore, insurget, bellumque nullâ justâ causâ sibi illa tum causabitur, maximisque copiis, injurias vindicaturus, præsto est.*"

It is true villanous Counsellors set this, otherways, glorious Monarch on to Enormous doings, whileas, himself, he was just and Clement: But this does not exoner him from Punishment in the Law of all Nations\*; since he sinned in not restraining and punishing them. For he who commends a vitious fact, helps in, and lends his name to it; approves and raises it; does not Prohibit when he can, and should forbid it; who Refers the committers; does not dissuade them when obliged thereto; or Succours the Sufferers tho holden to do the same; assents to, and Participats in the guilt. Salvianus of Kings, *Potestas Magna & Potentissima, quæ prohibere scelus maximum potest, quasi probat debere fieri si scilicet patitur perpetrari: And Dion in Galba; Privatus sufficit, non delinquere. In Imperio agentibus in-ambis, & hoc curare, ne delinquas alius: As Augustin,*

\* Græc.  
P. M.  
538.

\* Rom. I.  
Fin. Se.  
interdum,  
Int. turt.  
L. Imperator. ff.  
qui sine  
manc. L.  
2. ff. de  
Nox.  
Att.

\* Leg.  
Long.  
Lib. 1.  
Tit. 9.  
Scd. 251  
† Arrol.  
Adv.  
Gent. C.  
4.

*Qui desinit obviare, cum potest, consentit: And, Quod facinorosum, adflans, hortatur, profaciens habetur*  
The reason of which is rendred by *Arnobius, Quisquis patitur peccare peccantem, is vires subministrat audacitatis*  
And *Salvianus, In cujus manu est ut prohibeat, jubet agere, si non prohibet admittit.* And so since these Corruptions suffice to make up a Merit answerable to the punishment inflicted on K. J. we shall make no more unfavourable gloss on his share in the Tragedy of our Miseries: And consequently the least, we can conclude from the Premises, is, that since this war was inferred for taking away, and continuing to withhold our Properties; the *Broad*

*Qua fecit, si quisque ferat, jus fiet & Equum,*  
holds of K. J. the Question being betwixt him, and the P. (1) two Sovereigns. Punishment is naturally an evil of Passion which is inflicted for an evil of Action; and so what hath befallen K. J. is most just  
*Qua* such a punishment: For *Hierax* defines Justice *Pena exactionem ab iis qui priores læsere*; And *Plato* affirms, *Nec Deorum nec hominum quisquam hoc dixit injuste agenti non luendam penam.*

5. When the Supreme Rulers of any People are overthrown, all that pertained to them becomes the overthrower's, wherever it lye and exist; (1) All their Territories. To evidence this truth, observe that we speak only of the Conquest of a King's right which, being Incorporeal, & wholly in his Person, is acquired (his person subdued) in *Universum* to the Conqueror: not of the Conquest of a Kingdom, which (being Corporeal, and there being many persons Proprietors thereof who must be subdued; the design being to acquire the rights of all, both of King & Subjects) requires to be possessed naturally by, and so confirmed to, the Conqueror. In a word the Incorporeal right accreasing to the Conqueror by conquest of a King, is not the object of corporeal apprehension and so any Act of use on the Conqueror's part, and

sufferance on the Conquered's, is sufficient to the Acquisition thereof: just as *usus & patientia* suffice to the Transmission of other Incorporeal Rights, for example, a Liferent. But all the lands of a Kingdom being the proper Object of Corporeal Apprehension; there are, as many Corporal acts of Possession required to the Acquisition of each individual owner's portion, as were in the former case, to acquire the King's. Victory therefore, over a King only, falls out two ways, *viz.* either of, and over his Army; himself being free: or of, and over a King being present and his Army; whereby he comes in the Power of the Victor. In the first case the Victor can acquire no Dominion or Empire as to the Territories; and that for defect of the matter of Acquisition in the persons of the *Visti* the Souldiers, and of the form in respect of the Territories: For the Souldiers having no such Right, it cannot be had from them; and the Territories, (their Master never having been in Power, but they remaining posselt in his name) are not acquired till actual and firm possession be taken thereof by making or taking Forts, and the like \*. The same holds, as *Lawyers* assert, when a King is Vanquished and taken without his own Bounds, as *Francis I.* was in *Italy*. Because he had not, (at least) the full exercise of Regal Power *extra Territorium*, and being taken, only with his, then present, Qualities, could not lose it: and because there was Positive Resistance of the Subjects, (the war being against them also) who designed not only to defend their King's right, (and so continued to possess in his Name, without the least actual disturbance by the Victor) but also their own Patrimonies.

\* *Groz.*  
3. 4. 4.

But in our second case; when a King in person, and within his own Dominions is come in the Power, and Subjected to the Arbitriment, of the Victor: and leaves all his Territories to the Possession of the Conqueror; without any dissent, yea, with Homologation

tion of the Subjects: All wheresoever sited, accreted to the same Successor, as there was no Division in the subjugated person of the Author. For a Kingdom is one united *Totum*, whose parts are Coherent as those of a house: so this *Totum* being individual and unpossessed by another, (as, after desertion Scotland was not possessed by R. J.) the least Act in the Conquerors name, (as the proclaiming his Declaration, &c.) In any part thereof, acquires, *per Universitatem*, Civil Possession, and consequently Imperial right, of the Whole: Just as the acquirer need neither come nor send to all the rooms of a vacant house.

† L. *divus*  
ff. *jur.*  
Fisc. L.  
*bona*, Sc:  
*apparer*,  
*de capt.*  
& *poss.*  
*lim.*

\* Becler.  
L. 1. C.  
2. *puffen*:  
L. 4. C.  
6.

What is an Enemy's, is in Law † *res nullius*, & *pro nullo habetur*: and so, even as a deserted Region is acquired by setting up the least Symbol of possession on the border thereof, (which we have seen in the Indies,) the whole Complex of a King's Dominion is acquired to him who subdued his person, their attending so evident Symbols of possession as were for the thorough all Britain. *Per Occupationem*, says the Lawyers \*, *quæ sit per universitatem acquiritur dominium*

“ & *Imperium in omnia quæ isto tractu comprehenduntur*  
“ *sola animi destinatione, citra actum corporalem specialem*: non est opus ut quis singulas glebas circumambulet  
“ *sed dum quis fundum, (idem de insula,) intrat animus*  
“ *eum occupandi, statim Totum occupasse intelligitur*  
So the adjacent Sea is possessed and in Dominion of a King of Britain, without any special Apprehension and the Venetian Marries the whole *Adriatick* by the simple Act of diving a ring therein; whence notwithstanding the P. to acquire the Regal Right by Equipollent acts and means. This Acquisition is like that of an Heir, (yea a Conqueror is in effect, at least, a Heir; according to that famous Title of Law, “

† L. 1. §.  
Sc. ult.  
ff. R. 1.

“ *qui in universum jus succedunt, Haeredis loco habentur*” who by Gestion of one Act acquires all his Predecessor's Estate wheresoever it be. And as, when one made Captive, the taker acquires all things Coporeal

and Incorporeal which were his, (whether about his person when taken, or lying in the Victors Dominions, or in any Neutral's Territory) as accessory to his person \*. The Essence of Dominion consists, in being subjected to our Power and Disposal: Hence the word Possession comes from *posse sedere*, a Possibility of *positio sedis* in a place when one pleases: (As in the Civil Law possession is acquired, *Oculis, quasi longis manibus*, when the thing is patent, and no impediment to enter it) and so; since all K. J. had was in the P's. power (Ireland follows England, as an accessory its Principal, and the Roman Provinces; Rome \*.) and Legal disposal, for there was none to hinder it; he had also Possession, (External acts preceding and Concomitant) and Dominion thereof. That is to say, K. J's. Territories became the P's. Territories: whether that word comes a *terrendis hostibus* thence, by Forts and Forces; or a *terrendi jure* there, by the Magistrates not acting, what was done, (in K. J. Name) or a *serra* it self, which was then under the P. (not K. J.) Power and Government. So Hannibal to his Souldiers, "*Quicquid Romani tot triumphis partum congestumque possident, id omne nostrum cum ipsis Dominis suum est* †. Menander concerning the Territories of the City Daras, *Cum Urbs ipsa belli jure a se subjugata esset, Rationis esse, ut & quæ sub Urbe fuerant ad se pertinerent*. The Vandals defeat, Belisarius did vindicate Lilybeum in Sicily, as pertaining to them \*: Henry F. Barbaros's son, Sicily taken, did assert to himself Epidamus, Thessalonica, and others possess by the Sicilians †. Bajanus to the Emperor, *Ad se eam Urbem pertinere, ut quæ Capidarum fuisset qui Capida ab ipso essent victi*. And so these Authors, speaking of Democracies, speak, only, of the sole Supreme Governors being subjugated, which is the case in hand, and so infers our Conclusion.

If any after all this, pretend, that (tho the Ps: *jus ad rem* be undeniable, yet) those Acts of Civil possession

\* Grotius  
3. 9. 6.

\* Vid.  
Grotius  
3. 6. 26.

† Liv. 27.

\* Procop.  
2. Vand.  
† Nicetas  
Lib. 1.

session by him, (which existed before delation of the Interregnal Governments,) were not compleat; and sufficient to his acquiring a plenary *jus in re*. Giving but not granting this: he hath now a Consummate and compleat real Right (possession, altogether full, having now acceded to his Title,) and that, (as to K. J. and his Partizans) by Conquest confirmed by consent (which was manifested by Election) of the Subjects. For the state of war (not made up by a peace) remains; and so that Title of Conquest continues still, (as to K. J.) and the P's. present possession is undoubted (possession, being, *Detentio rei cum affectu et animo sibi habendi*) and so it may be assigned to that Title when the Question is with K. J. since a man may possess a thing by two, or more Titles & thence K. J. is dispossessed entirely; for two cannot possess in *solidum* the same thing, in the same kind, & at the same time; no more then two can sit or stand in the same individual place at once: and whatever the P. formerly resigned in favours of, and Transacted with, the Subjects, cannot advantage K. J. who holds, that their actings are null; seeing, *Res inter alios acta, aliis non prodest; ubi personarum conditio locum facit beneficio, ibi, deficiente ea, beneficium quoque deficit*\*; *qui legem contemnit, non debet frui ejus beneficio, nihili nullæ sunt proprietates, & quod nullum est, nullum, de jure, sortitur effectum*. But the truth is that, the P's. Right was, (before now) entirely Consummated by K. J. his desertion. A Contract, Emption v. g. is said to be perfected, when (its Essential Requisites being present) *jus ad rem emptam* is perfectly stated in the person of the Buyer: And it is said to be Consummated when, in virtue of that Right, he obtains *jus in re*, or the thing bought delivered to him. Even so was the P's. Right of Conquest perfected and consummated according to the Law of Nations, which is a comune Contract of all Princes and consequently of K. J. also. For a Just and Solemn war against a King

† L. 3. §  
4. ff. acq.  
poss. L.  
159. ff.  
de R. J.

\* L. in  
omnibus  
causis. ff.  
R. J.



King, (not satisfieing its causes) gives *jus ad rem*, or (as *Livius* calls it) Title to his Regal right: Acts of Capture and possession; and finally, full Victory; and that King's giving over (by desertion) all to the victor: is the same with Tradition: and Consequently confers *jus in re* on the Conqueror.

It were expedient here to elucidate how K. J. his leaving us, was a Dereliction: but since his desertion not only left a real right to the Prince, but also free Liberty to the Subjects to acknowledge the same; that shall be expedit in the third Section, where both their rights are considered joynly. Here only, a great Block shall be removed out of the way, viz. That K. J's. going off was occasioned by Fear; and so say they, it should not prejudice him. This is wholly false in a Solemn War; since the *Hebrew* Kings were accused by the Prophets, and punished by God, for coming against what was done out of such a fear and compulsion\*. For,

\* *Exech.*  
C. 17.

Fear is a passion and Trepidation of the mind because of some present, or certain future evil. What is done through this fear, & to evite that evil, is Spontaneous and voluntar, and so once subsists: for of two evils, to do or suffer, he voluntarily (*ex post facto*, & *post illo casu, licet non ab initio*,) choiceth to do as the least evil, and in so far good. *Contra voluntatem voluntas* est sayeth the Law: And \* *Qui metu aliquid fecit, obligatur, quia consensus hic ad sui, non conditionalis, sed absolutus*. In this, fear differs from Force and Absolute Violence. For what is done by proper force is acted only by the Forcer himself without any concurrence of the Sufferer: As when a man is dragged out of his house; which cannot be said of K. J. who had full freedom, and was intreated, to stay in his Kingdoms. Moreover, what is lost through fear, stands firm, and is not subject, no not to be restored in *integrum*, on two grounds principally. First if it be a vain fear: Secondly, tho the fear be not

\* *Grat.*  
2. 11. 7. 2.

vain,

vain, if the cause be just which occasioned it. As to the first: *vannus timor* is, when the fear is not such, that it would put a Moral necessity, on the most constant man, to do what is done therethrough \*. So suspicion is no just cause of fear †; nor when one conceives fear to himself, from an other's great power \*, unless, at most, threatned thereby. So that fear, which would be just in a Peasant, is in Law, esteemed vain in a Souldier: and that which would afford restitution to a Pusillanimous man, will not be named to, as reflecting on a Nobleman. Hence, what shall we pronounce of K. J's. fear; he being so Magnanimous a Prince; and secured by most Solemn promises of a Faith never Temerated: Nature having garded him by the untainted honour of a Prince, and affectioned Intercessions of a Daughter: The Army being for, not against him, if he would have consented to be joyntly protected by his own Laws. The rejecting all which gave us just fears indeed, that it was a designed total Conquest (not fear) which caused his Desertion.

As to the second: Tho this fear was not *vannus timor*, yet the cause being just which occasioned it, viz. A Solemn War, what is lost thereby, is irrecoverable. For K. J. gave cause to the war on him; and so his own Scholasticks decide, "*At qui causam dedit cur vim pati aut metu cogi debeat, habet quod sibi imputet: nam involuntarium ex voluntario ortum habens, pro voluntario habetur*". In a word, all Lawyers † are expresse, that what is done out of fear (which a King hath driven on himself) of the effects in a Solemn war, can never be come against. Sicut "*Genium consensu introductum est ut bella omnia, summe potestatis autoritate utrinque, gesta & indicta, pro justis habeantur quoad effectus externos; ita & hoc, ut talis belli metus hactenus pro justo habeatur, ne quod ita obterium est repeti possit*". So Grocius again; "*Bel-lum sollenne (i.e.) publicum utrinque & indictum, si-*

\* Bachov.  
Zeeff. ad  
Tit. ff.  
quod met.  
causa.  
† L. 9.  
pr. Q. M.  
C.  
\* L. 6. C.  
eod.  
Michael  
de Luna  
& Arrol.  
de nati.  
imperii  
Lib. 1:  
c. 10.

\* Lessius  
Lib. 11.  
c. 17.  
Dub. 6:  
Grot. 2.  
17. 18:  
† Struv.  
Ex. 8.  
Th. 12:  
Mich. de  
Lun. L. 2  
c. 10.  
\* Bodin.  
de rep:  
L. 4: c.  
6.  
Grot. 2.  
17. 19. &  
Lib. 3:  
19: 11:

*" cui alia habet Peculiaria in jure Gentium externo posita,*  
*" ita & hoc, ut quæ in eo bello, aut ejus finiendi causa,*  
*" promittuntur adeo sunt valida, ut ex causa meius injuste*  
*" illati in irritum deduci non possint: Which Law of*  
 Nations was Absolutely necessary, because ( as Gro-  
*" tius adds, ) Ni id placuisset bellis talibus ( ubi meius*  
*" utrinque inferitur ) quæ valde sunt frequentia, nec modus*  
*" nec finis potuisset imponi, quod tamen fieri, interest*  
*" humani generis. And to take away this Law were*  
 in effect, to banish Faith from all publick Negotia-  
 tions, and Quiet from Mankind; since few Treaties  
 but are made in Arms by Force, and thorow fear to  
 lose Life, or goods; Liberty or the State: which  
 are causes able to shake the most constant. From all  
 which it most evidently appears, that the greatest  
 fear could neither invalidate what K. J. did, or might  
 have done, during his abode: nor consequently, at  
 last, his Desertion: Even as he, who (made Captive  
 in a just war) promiseth a sume for his Liberty is  
 never excoemed from, but by his own party, forced  
 to; Payment \*. And as, whatever right one, Legally  
 Imprisoned, grants or renounces, is irreversible †.  
 And if he run away for that debt, he can make no  
 Advantage of being forced by Bailliffs; because the  
 cause of the Force was Originally from himself,  
 and he might and ought to have prevented it.

\* *Christin*  
 vol. 3.  
 dec. *Beliz*  
 124. N.  
 9. Seqq.  
 † L. 27.  
 Pr: ff. Q.  
 M. C. 16.  
 D. D.

THESIS

## T H E S I S I I I.

*But his HIGHNESS having Over-given and Resigned, any Title of Conquest, to the Subjects (after the Conquered King's Deserting them to the Conqueror, and thereby Consummating his right) the Regal Government was (pro tempore) Dissolved; and they were as free, from K: J: as if a Democracy had been Surrogate in its place.*

### P R O B A T I O N.

I. **T**HE Regal Right being thus stated in the P: he, with a greatness of mind, rare in the Worlds History of our days; did resign the same to the Subjects considered in the Capacity in which they are represented in *Parliament*. Whence the P. (who alone had the whole Power & Empire, which before Conquest was K. J.) being denuded, Monarchy (as to K J:) necessarily ceased and was dissolved: and our State became a mixt *Democracy*, after the manner (only with Super-addition of the remanent Power which formerly was in the King) of the Ancient Representative. So *Lycurgus* did spoil himself, and the next heirs of the *Heraclid* race, of Supreme Power; to conferr the same on his, even, Reluctant Citizens: changing not only the State but Laws, of that thrice happy City. Even as those who wared before *Ninus* did not seek Empire but Glory \*. And as the P. glorious Ancestors, and he, have done in, and to the so great advantage, of the Provinces. *Antigonus* is celebrated by *Polybius*, that when he had *Sparta* in his power, he left to them their State and Liberty: and the old vertuous *Romans* did vindicate *Asia*, *Greece*, and most other Cities from their cruel Tyrants, and then left them to their Liberty: as *Agapetus* (Pope) did to the Children of *Valtinius Juciatius*, because their  
King

\* *Justin.*  
Lib. I.

King *Clotharius* dispatched their Father before the Altar. Who is able or willing in this decrepitate Age, to parallel the piety of the Noble Romans, but our *Princes* For, as they permitted the *Cappadocians* to use what form of Government they pleased, so he transferred all his Right to us; to the end we might confer it again on King *James*, or any other, as we found the same most necessary for our safety and happiness: As *Abraham* took back the spoil, but restored what was become his by the right of War, to the first Owners.

2. This entire Conversion, and thereon Vacancy of the Government, was declared by the States, (according to their own inherent, and the Princes co-incident power,) each Member giving his vote on the grounds which convinced his own conscience: And all Men, of what Opinion soever, may see how clear Reason there was for that Declaration, the P: having over-given all his Right most evidently. For, a Man declares his mind three wayes, principally; viz. by Word, Write, and Deeds. But, First, the P: both by Word, Write, and Deeds, gave and enjoined us absolute Liberty of Settling and Disposing of the Government; And accordingly, in the second place, accepted the Government (in the interim) only *cursorio nomine* in the Peoples name, without any Majesty. This charge, for, calling the States, keeping us in Order, and the protecting all \*, engaged him to wait here till the States final Determination; which being the Election of himself King: He, 3 ly, accepted that, as having then no Right of his own (by conquest) in which Quality he had accepted the former. The first of these was an *explicite renunciation* of all his Right; and the two last (tho the first sufficed, yet in confirmation thereof) contained necessarily an implied one, which is equivalent to express. For, *taciti & expressi eadem vis est*, so he who redeems a Captive, with his own Money, tacitely renounces all Right in the

\* According to his Declaration, & Delations of the Government: Civil and Military

the Redeemed, by subsequent embracing her in Marriage<sup>\*</sup>; and the *Fiduciary* restores the *fidei commissi*, (not only *verbis*, but also) *re, cum res à fidei commissario possideri, permittis*<sup>\*</sup>: So, sayes another Law<sup>†</sup>, *recusari hereditas non tantum verbis, sed etiam re, potest, aut quovis indicio voluntatis*: And he who (being Proprietar of a thing) wittingly contracteth with another, who possesseth it, as Lord thereof, is judged to have remitted his property<sup>‡</sup>: Even as returning the Bond, contains a Remission of the Debt due to the Returner<sup>\*</sup>: And a Superiour conceding or commanding a Subject to do that which he cannot do lawfully, unless loosed from the Law, is understood to have dispensed with the Law to that effect<sup>†</sup>.

3. Whence now appears, wherefore the P<sup>r</sup> did not, then, take the name of King by conquest; and so short while retained the Right; viz. because moved thereto by Reason and Example. By Reason, for, (knowing that a Proprietare may have Dominion tho he call not himself Lord) he intended to acquire no more then was Absolutly necessary to satisfie (*in omnem eventum*) the Consciences of all Subjects; i. e. the Power: the which also, resolving immediatly to resign (since it was for us only, not himself, he came hither) he would not be called a King of some few dayes. By example, for, how many Hero's have Conquered, not only Kings, but Kingdoms; without ever assuming their Title? Wherefore, since we see the Advantage *Translati Imperii*; and that the P. proceedings, were such, as in their own nature, and in the meaning and use of all Ages, imported *animum acquirendi Imperii*: And since his promises to us all (to procure, *omni habili modo*, us Liberty of being once more happy) and his Charity to many (whose Scruples, and Insurrections thereon, he knew could not be otherwayes stoped; because they would judge their using that Liberty Criminal) did oblige him to the same: we must conclude

\* L: 13: c: de postlim.

† L: 37: ff: ad fest Treb:

‡ L: recusar: ag: har.

|| L: quidam de re jud:

\* L: labo. de pact.

† DD: ad l: Bab a. rius de off: paxfi:

clude that, after K. J. desertion of all other means, he intended this Acquisition as the only remaining mean, (since any contrary *Proposium, in animo, retentum nihil operatur*) to make all happy, and that *intus*, and to the end, of this Translation: (Since this exceeds all from the possibility of incurring any Delict.) *In dubio* (it self) *ea capienda est Interpretatio, ne quis presumatur deliquisse* \* : *Semper in dubio, benigniora preferenda* † : & *quoties idem sermo, duas sententias exprimit, ea potissimum accipiat, quæ rei gerenda aptior est, ut valeat potius quam pereat societas, & quæ est secundum ejus naturam* \* : But the P's: having Right (tho not *nomine* yet *re*, and not as to the outward form, yet as to the substantial matter) and its union with the States own power, excludes all delict from the Acquiescence in their Determinations; and so is the most benigne interpretation, being according the Nature; (i. e.) the maintenance of Society, as the contrary gloss tends to its ruine; and consequently, tho the matter were doubtful, as it is clear, all, who cannot be satisfied otherways, should follow this interpretation, else they are enemies to the GOD of Order and Peace, as being enemies to, and disturbers of, Humane Lawful Society.

Hence also is clear, that it was not free for any Mutineer to dissent from the subjection he (even) then owed by vertue of this Acquisition and Translation of the Regal Right; for he was obliged to Obedience and Compliance on two accounts; First, as to the P: become his Sovereign; since the debt of Allegiance remained unextinguished, the creditor therein, and object thereof, being only changed. Secondly, as to Fellow-subjects, (i. e. the State) since the Obligation to them as parts of the same body (which was Anterior to (and so separable from, and is as binding as) that to the head; whose Society with the Members was only dissolved; but not that of the Members between themselves \*) Remaining without

\* L: 51:  
ff: pro socio.

† L: 56:  
de R: J:  
\* L: 67:  
de R: 1:  
16. DD.

\* *Quod non expresse mutatum est cur stare prohibetur.*

out any change, even in the Creditors and Object; obstricte'd him, to the publick good of the Major part, that being the Indispensible bond of all those who have once consented to a perpetual Society. For which cause also; the States Determinations did oblige such a Dissenter tho he was unwilling to accept the P's. gracious benefit of Liberty: since, ( all his Brethren Subjects being peculiarly interest'd therein) *cum alterius interest, publice aut privatis, invito deus beneficium* \*: And since he was freed Antecedently by the P. and K. J's. own facts, from his debt of Allegiance to K. J. for *Debitor liberatur, cum quis, eo invito, solvit ejus Creditori* †; *Et desinit debitor esse qui natus est exceptionem justam, nec ab aequitate naturali abhorretur* \*. Finally, tho this Acquisition and Translation was not particularly known to some, even good Patriots; yet ( that being Internal and so Latent to us, and the States having willed generally, all means necessary or conducing to their end; ) the external effects are not impeded thereby: since, *Quod animi retentum est nihil operatur; & licet in causis dissenserint, tamen in hoc convenerunt ut juxta transferet omni habili modo* \*.

\*DD. ad  
L. invito  
R. J.

†Tit. In-  
fit. 2.  
M. O.  
Tol.

\* L. 68.  
de R. 1.

\* See the  
DD. who  
write at  
large, ad  
Tit. de  
Aq. re-  
rum dom:

4. That which summes up all reasonings, and removes all (even) difficulty from the Premisses, is K. J. Desertion. For K. J. resolved not to keep his Crowns in the quality, and on the conditions offered (else he had acquiesced in them) but intended to have a new Right without any of those Legal Cloggs; (else he had continued to exerce his old right in that quality; a thing then, so necessary and implored:) And so dispairing to retain his Kingdoms ( as he would have them ) left the Subjects in confusion, and the Prince to order them. This was a real and absolute present Desertion; and consequently gave all right desirable both to Prince and Subjects. It is the dictate of Nature that we collect the Will from Signs proper and fit to declare it by Moral ( not Mathematica-

tical)



tical) certainty: For the Nature and *Non-perturbance* of humane Society require that those signs have some efficacy; since it is not possible to know the mind otherways. And so K. J's. going off is a sign morally demonstrative of a present *desertion* by the feet, in immoveables; as Abjection by the hands, is of *Dereliction* in moveables. For since he willed, not to keep his possessions, (which he had Power to do by once saying, *Le Roy le veut*, to our demands,) he willed to leave them as (being so hemmed) things of no value: And this leaving them is *Dereliction* and *Desertion*; *relinquo* and *desero* signifying only to leave. Government is so necessary for the preservation of Subjects, that he who intends to have Subjects must at the same time intend to Govern them. No man can serve two Masters; and so In consistencie (the will of reigning, and the will of leaving us to the P's. Regiment, [for he knew what the Subjects would do after his removal,] being inconsistent) he hath *Abdicated*. At least he hath really given over his Possession at present; but on condition (Resolutive) in effect, of recovery or being restored in the future; which suffices to the Conqueror: Since, *Si quis eâ mente possessionem tradit ut postea ei rei Restituatur, desinit possidere* †. \* L. 117, Sect. 1. ff: Aq: Pos.

And the Conqueror is not obliged to admit that condition, he having once *jus quæsitum*, and the state of War (to whose causes much is superadded by K. J.) still continuing. The truth is: any purpose of an After-game (being only Vagrant, an uncertain futurity, *contrarium factum* of present Retention, and mostly *animo retentum*) *nihil potest operari*, as the Lawyers speak, to intervert what he hath explicitly and actually done, and our present just right of Possession thereon: Since, *Nemo potest mutare consilium suum in alterius injuriam* \*; & *penitendo non, nocens* de R. l. esse desinit. \* L. 65. de R. l.

"He who suffers his Child or Slave to be exposed to another's compaſſion which he hath not himself (says L. 2.

D

C. de

"C. de infant. expos.) is judged to have deserted his Paternal or Dominical Power, which he hath shown him-  
 "self unworthy of: And are not Subjects a Kings Children, and were they not (when permitted and exposed to the P's. Compassion) K. J's. Slaves. It is called Desertion, in a Commander, when once leaving his station and Souldiers; he, in the day of Battel, flyeth from his Colours: and in a Master of a Man of War, who in the fury of the Fight, gives over the Helm and permits (as to him) the Ship to Split: and in the Governour of a tenible Castle, who, when (in a Siege) there is most need of his Presence, slips from his Office out at a Postern: all which will hold more firmly, when the Enemy demanded nothing but what those Officers were obliged to by the Law of Arms, their King had commanded to grant, and their Souldiers supplicated to conced. Even so K. J. (the Commander, Master, and Governour of these Kingdoms, which are like an Army, Ship, or Castle †) leaving that Post in which GOD had set him; when the P. required nothing but what was the Law of Nations, according to the Word of the KING of Kings, and the Subjects humble Remonstrances; must be acknowledged to have Deserted. If Subjects once leave their King in his greatest straits when he exacts nothing of them but what their own Laws do bind them to; this is Defection: and so a King's once leaving (a Prince and) his Subjects, (in their greatest needs,) craving meerly what his own Laws (and consequently that of Nations) do determine, is Desertion: since *Correlativorum eadem est ratio & Disciplina.*

\* Sen.  
 Epist.  
 102.

\* Sen. de  
 Clem. L. 1  
 C. 4.  
 † L: pro-  
 ponebatur  
 de jud.

A Kingdom is a Body ( Political ) and the King (Analogically) its Spirit, ( *Spiritus vitalis quem tot milia trahunt* \*) Form, or Species †. Government is the full and perfect Consociation of the Members and parts cohering by the common tyne of this Spirit and Form (as to the Head it self.) When this Spirit and

and Form do not appear, it is all the same with Non-  
 existence: *Quod non apparet pro eo est quasi non sit* \*, \* *Grotius*  
*esse & non apparere tantundem valent, quoad eum cui* 2. 8. 7.  
*apparet* †; *qui in urbe Roma est ita ut lateat, nondum* † *Grotius.*  
*ceptus paulo videtur; opus enim est ut cognoscatur* ‡; 2. 10. 9.  
 and in Law, *sub factis comprehenduntur non facta*. So \* *L. Ult.*  
 as when sickness vehemently encreasing; the † *ff. de*  
 soul separates from the Body; Man rests dead (as † *capr.*  
 that form) unless of new inspired; and a toured  
 spring, the Form or Impediment removed, returns  
 at least) to a more lax posture: the Government  
 abandoned by its life; (K. J.) was revived, and con-  
 strained Liberty rested at its scope, in his Highness  
 of some. There is an egregious example among  
 the Jews, where, if the poor did partly Collect,  
 partly Neglect the Corn left to them by the Lord of  
 the Ground, that which they neglected might be  
 taken up by any as Derelinquishd \*. Which we  
 shall apply to our case, in the famous *Conringius*  
 words †. *Derelinquit ille Imperium in civitatem qui*  
*sciens volensque* \* *Patitur eam perire, aut in summum*  
*discrimen adduci; nec in salutem ejus quicquam movet*  
*dignum memoratu: nec enim ita se gerit circa rem quam*  
*pro sua vindicat, vir bonus & prudens, sed erga rem*  
*alienam*. Grotius asserts, *Amissum censetur cujus*  
*recuperandi spes projicitur*: But K. J. having firmly  
 concluded not to grant our demands, could have no  
 hopes of recovering his Estate at present (else he had  
 not left it but granted and recovered) and so, *pro*  
*tempore*, he hath lost it, (at least) by Desertion. A  
 Kings right in such cases is more easily amitted, then  
 a private mans which he hath only for himself, and in  
 which publick Peace is not concerned: But even a  
 private man, *Rem suam possideri resciscens, & vel non*  
*est admissus, vel majorem vim veretur, possidendi ani-*  
*mi omisisse censetur etiam invitus* \*; (For while as it  
 is said, *Animo retinetur possessio*; that is understood,  
 not of a naked and vain Imagination and Cupidity,

\* *Seld.*  
 lib: 6: c:  
 6: p: 699:  
 † *Conring:*  
 de fin. c.  
 19. N. 5.  
 \* we heard  
 before,  
 that in  
 War, in-  
 volunta-  
 rium pro  
 volunta-  
 rio habe-  
 tur.

\* *L. 3. S.*  
 6. l. 6. 7.  
 acq. post.  
 Bruner:  
 diss: de  
 poss: th.  
 11.

\*j Struv:  
Ex: 42:  
ch: 34.

but of that rational mind and will which may at pleasure exert it self, *Corporis ministerio*, in Imperat Acts \* ) And so all this must much more hold in *James's Desertion*.

We may rationally presume from *K. J's* Nobleness and Charity, that he *Dispens'd*, (like *Solomons* true Mother, who, for the sake of her Child, would rather sign him up wholly to the Enemy, then reserve to herself, a share made dead and useles by the Sword with his present frail Right, ( in hopes of one more fitting his Counsellours humour ) whereby ( at least his own friends ( whom he knew it was Morally impossible to have Protection or keep Life or goods on any other terms ) might not be involved in Permanent Rebellion in complying, or ruine in gainstanding: since, if by his ill Administration, he had given occasion of sin or such damage, he were obnoxious to Divine displeasure. These Conjectures which also favour Piety, present Peace, and humane Society ( whose Interest it is to have Empire fixed and incontrovertible ) are to be extended to the outmost

† *Grat. 2.*  
*A. 8.*

DD. ad  
Instit. q.  
m. u. 2.

Hence Custome ( which is Law, only by tacite consent ) is introduced by Subjects, only because the King does permit and Tolerate; but is not *K. J's* apparent leaving, and giving up all to the Conquerors determination, expressly to permit and Tolerate. A Liferent is not only amitted by Non-usage, but also by inundation Intercepting Possession thereof and by Civil Death: but most Lawyers call the Regal Right a Liferent, and here was Non-usage *culpa usufructuarii*, and the Possession intercepted, and *K. J.* Civilly dead as to the Kingdom ( after Desertion: ) And so why was not his Liferent amitted; since the space of time is only of Civil Institution, and pertains to private, not publick business, the reason and states of these being most different. Finally even as the Sun being absent, and the Earth Ecclipsing its beams, is reflected from the Moon, we remain in Darknes

the passages, of the Spirits directed from *glandula*  
 si, stopt or marred, the Members have no, or on-  
 convulsive, motion; and the *Primum mobile* cease-  
 to act, the inferiour Orbs must sist also; and the  
 unrain dammed, the rivulets run dry for want of  
 continued influence: So had we asto *K. J.* by his  
 desertion; if the *P.* (come in his place and right)  
 did not given light, Spirits, Motion, and Influence  
 our Government: *i. e.* the same Body remained,  
 the Head only changed.

Many would make much curious dissertation here,  
 w *K. J.* deserted all his Legal Regal right; even  
 fore the Childs birth. For (would they add) *K. J.*  
 d Derelinqished, laid aside, and neglected de-  
 nedly and voluntarily, the Administration of the  
 overnment by Law ( which was his only true, com-  
 ent and Legal Right ) in all the parts thereof, Ci-  
 Ecclesiastical, and Military; with intention no  
 pre to use it: But this is a full definition of Deserti-  
 Go: &c . Legal and Illegal are inconsistent and  
 compatible in the same Subject of Government:  
 d so the sole use of Illegal Exercise totally exclud-  
 the Legal as Deserted. King and Tyrant (*qui tire*  
 ) are repugnant: and so he is no more a King who  
 ch cast off the Fetters of the Law, then he is a Prison-  
 who hath got at Absolute liberty by breaking, and  
 deserting his Prison: and he remains a Man, but  
 a King, who leaves his line of Suberdination to  
 DD; as he remains a Man, but not a Subject (as  
 the Priviledges) who swerves from, and leaps  
 of his line of Subordination to the King. He can-  
 be called a Father of his Subjects, who treats  
 m, not as Children, but as Slaves: Or a Pastor  
 o does not feed, but only fleece the Flock. Some  
 materially just, but not formally so, do nor im-  
 eth this entire Desertion, and so the Actor's being  
 King: since they are exerceed, *Ex usurpata potesta-*  
*Legitimâ hactenus Derelictâ*) and the real being  
 Nature,

Nature, and so Denomination of things, are taken from the Major and Prevalent part: Even as he who hath a servitude, amits the same either by an total non-use thereof; or using it, but not *jure Servitutis*\*, or not after the due and (by Law or Paction) prescribed manner †; or after a manner contrary to the Constitution: As *Adam* (Lord of the Creatures) by his Ambition yet mounted a step higher; and so (by one act) deserted that whole happy Post in which he stood and consisted formerly: and a Man is a Robber (having thrown off honesty,) tho he affect some Justice in dividing the Prey or otherways; even as Satyr is no Man, tho resembling him in face, gesture, and speech.

Hence (would they proceed) the King becoming such a Man; the being meerly Passive, in not concurring with him (against a Forreign Prince come to rescue us by a War which was Lawful, and consequently unlawful to resist) was no resisting the King nor consequently the Powers. For *K.* ‡ indeed usurped (in place of the, already Deserted, Legal and Limited) an Illegal and Despotical Power which being null, unwarrantable, and he having no right to make use of (for *mandatarius nullam habet potestatem extra fines [quoad Materiam aut Formam] mandati propositos*; and a King is at most but GOD's *Mandatarius*.) He had no Power, and consequently nor was obliged to obey it, (at least) actively; since the whole Legal frame did then lye unhinged; and *ad illicitum nemo obligatur*; and *non Imperata jure nec jussu exequi*. No Mortals precept (especially when null) can excuse Suicide, if killed, or murder, if I kill, in a wicked cause (such is the opposing a just war, *fin Bellum nequit esse utrinque justum*;) and so we did right in obeying rather GOD then Man; since both bound and free must make count for their own Actions. So *Josephus* tells us, That the brave Jewish Souldiers in Alexander the Great's Army, could neither by stri

\* *L. fin.*  
*l. 18. l. 10*  
*S. 1. quem*  
*ad: serv.*  
*amitt.*  
 † *L. 18:*  
*pr: l. ult*  
*cod. l. 1.*  
*S. 6. de*  
*itin. affa-*  
*que prio.*

\* *Eph.*  
 6. 8.

not reproaches be forced to carry (only) Materials for repairing Belus's Temple in Babylon. Much less could any Law or Oath oblige Subjects here, to assist any Officer or Minister, in that crime against the P. seeing it is permitted by the Law of all Nations (and consequently the Antecedent consent of all Sovereigns) even to actively resist them, exacting any thing unjust or illegal. For this is not resisting the King (in so far not represented by them, their Commissions being in so far null; since *rei illicita nullum est Mandatum*) but holding their hands, and Parrying the Rod. This was enacted by Kings as a Caution, that any thing Surreptitious, or formerly made Law by the King himself (with advice of his great Council that it was for the publick good of the State) were not obtruded for his real pleasure, or subverted by his less Solemn will (by the Delusion of any Particular lesser Council; to the publick ruine of the State.) Hence is the check of Seals, And Chancellours; and Rescript of *Antiochus 3. Ne Magistratus sibi paterent si quid Legibus adversum jussisset; and Constantine, Etiam si Imperatoris rescriptum proferatur* \*; and the famous Law (*Devotum, C. de Metat.*) with the enlargements of the Doctors thereon. Hence it appears, that the Major part of Subjects (especially Scotland) being meerly Passive till K. J. final Desertion, were altogether blameless: (since all their Active concurrence sisted within their breasts without any fait overt.) Even in the Principles of the rigidest *Mutineer*.

On this ground (of K. J. ceasing to be Lawful King by his own Spontaneous and deliberate Desertion) would they justifie their inviting, and thereafter actively Assisting the P. (in both their Defence) against him. But I shall relate the more moderate judgment of a Gentleman (and perhaps the remainder [Minor part of the Kingdom] were of the like opinion) both as to the Invitation and active Assistance, I, (said he, being a zealous Royalist) seeing that

\* Vid.  
L. 1. C.  
de peit  
bon. subl.  
Et ibi Cit:  
a Brunem.

that without the safe-guard of a Non-subject-Prince,  
 our Laws securing Religion, Lives, Liberties, and  
 Properties, were but trifles (being without Sanction,  
 since it is not permitted to Subjects to defend them,  
 by themselves, say some Men) and seeing the ruin  
 of my self and Brethren in the overthrow of these  
 Laws: concluded it lawful to invite the P: to use his  
 Right of Defending them and us; and ( ceasing to  
 be K: J's: Subject and become the P's ) to assist him,  
 ( come to *England* ) as my present Sovereign. As to  
 the First, Though it be Criminal in a Servant ( be-  
 cause of his personal tie, and want of power ) to pu-  
 nish his Master, delinquent against himself and the  
 State; yet it is lawful, to him, to invoke another  
 ( no wayes under that tie, and having power ) to  
 use his right therein: and consequently to Subjects †.  
 CHRIST, as Man, submitted himself ( in our Na-  
 ture ) to fulfil all righteousness; And consequently  
 as a Subject, to all the Duties which Subjects owe to  
 Kings: since he came in the forme of a Servant and  
 Subject; and was made under the Law. Hence what  
 might have been lawful to him ( in His estate of hu-  
 miliation ) towards Magistrates, must be ( now )  
 lawful to us. But, though CHRIST would not resist  
 Authority, & condemned the resisting it in *Peter*, ( for  
 that injurie was private, ) Yet \* *He could have prayed*  
*to the Father*, ( who might do it ) *for legions, to His assistance*  
*in that extremity of danger;* ( for all *Judea* was then  
 tyrannized over, also; ) And the only reason given  
 ( then ) for omitting it, is, ( not unlawfulness, but )  
 because He was willing to be taken, *knowing that it*  
*must be so:* This clearly implies the possibility, of  
 such a Call, ( in Him ) and consequently the law-  
 fulness of such a Call ( in us ) of force against the  
 oppressing Magistrate: And our King's by assisting  
 others on their supplication, have approved and con-  
 sented it should be so. As to the second, I was indeed  
 once under K: J: but ( for the foresaid Reasons ) I  
 renounced and deserted my *Domicil*, and *estate, animo*  
*nunquam*

† Nota,  
 This is  
 the strain  
 of the  
 Roy-  
 lists  
 writings  
 vide: Sur-  
 vey of  
 Napht:

\* Matth:  
 26: 52:



*Quoniam redeundi* (on the resolute condition of *Non-Redress*) and submitted to, and owned, the P: as my (now) *Soverraign*: which Surrender he accepted (which was meerly giving *Sanctuary* [*causa cognita*] to a innocent flying thereto) by his *Declarations*\*. And so my *Allegiance* was transferred from King *James*, to his Highness; (*Protection* and *Allegiance* being naturally *reciprocal*;) and then I entered in a *Religious Covenant* under his conduct. Lawyers † are express that, by the Law of Nature, Nations, and Recent customs, I had right of Liberty of Transition from, and then submission to, any Sovereign I pleased; And consequently to the P: (no *Prohibition* of this particular case preceeding, nor he pre-declared *Enemie*;) especially on grounds, so important to me, and profitable to K: Ja: I having left to him my whole Estate (the taking of which, I believed, would be called *Forefeiture*) as the price (to conduce another Souldier in my stead) of my necessary absence. Nothing is unjust which hath not a necessary Repugnancy with the Rational and Social Nature\*: But this was not repugnant to the Rational Nature; *summa enim ratio est quæ pro Religione, & libertate facit*: Nor to the Social; for I took this course for the good of both my New and Old Society. Even so many *Israelites* (without consent of their ten Kings) submitted themselves to, were incorporated under, and entered in covenant with *Asah* and *Hezekiah* as become their King for carrying on a reformation, according to the law †: *They fell to mourn of Israel, when they saw the LORD his GOD as with him*\*, *Junius* renders it *defecerunt ad eum*; others, *Transfugerunt ad eum, dejecerunt se ei*; importing both their Defection from *Baasha* and Submission to *Asah*, as his Subjects; Whence, V: 15: they are comprehended under the name of *Judah*. If it be pretended that, this Doctrine opens a door to perpetual Revolts of Subjects, Resp: 1: *ab incom-*  
*modo*

\* *Vid:*  
Decl:  
where he  
requires  
&c.

† *Grotius*  
*Gail:*  
*Brunem:*  
*Struv:*  
*Wissenb:*  
ad tit, ff:  
ad mun-  
nic:

\* *Grot:*  
I: 2: 1: 3:

2 *Chro.*  
29: 10:  
and 30:  
25:

\* 2 *Chr:*  
15: 9:  
15.

*modo nullum est argumentum* : since *incommodum* and *illicitum* are quite different ; and the abuse of a lawful thing by another, does not take away from me the lawful use of it, else they might part us shortly with the *BIBLE* it self : Wherefore *maneat usus*, *tolatur abusus*, since Pirates also saile, and Robbers use weapons. 2: There is no such frequent *incommodum* in this: for, ( besides, that this is *commodum* to the multitude of Subjects, yea, to the King himself [ detained, for fear thereof, from sinning ] and so to Humane Society ; ) there will be but too seldom the concurrence, of a forreign Prince, universal unanimity of the Subjects, and sufficient cause in their King ; all which are indispenfible Requisites. Hence, a forraign Prince, and Subjects here, are either conscientious, or not : if they be conscientious there is no fear of their attempting without just causes ; if they be not conscientious, they will attempt without any, or on other pretences ( though we take from them this : ) And consequently there is no Advantage in not admitting this Doctrine ; but great Disadvantage to the Happines and security of Mankind. In a word, it is certain that Subjects will never ruin their own Quiet ( if not possessed ) causelessly : and so the King will remain secure ( if he be not raving. ) And so we see from this Deduction that, at least, the major part ( by which all Societies are estimate ) of the Subjects being innocent ; the acceding to the Prince ; ( even before K: James's late Desertion, and so the perfection of the Prince's right did not impede or vitiate his Right, ( subsequent after that Desertion ) through Conquest. Which would hold also as to its real effect, though some of these Subjects had laboured of some *personal defect* since *accessorium non potest mutare principale*, *utile inuile non vitatur* ; *propositum in animo retentum non operatur* : And it is lawful to use evil instruments for good ends, and lawful to himself : ( he forced for

too, whom he might have treated, as enemies to be merely passive†: ) as GOD himself does † Trans-  
 Devils and Sinners. From all which it is demonstra- fugam  
 ble, that [ this First being consummate by a Se- jure bel-  
 cond, Desertion and final Disappearing as to any li reci-  
 Capacity whatsoever ] neither Prince nor Subjects pimus  
 have dethroned K: *James*, but he hath, by his own l: trans-  
 Facts, depoed himself: And that, it is not by Vi- fugam  
 gour of any Sentence he is un-King'd; but before ff: de  
 any Act declaring merely what was past, ( the Mem- acq: rer:  
 bers being in effect, so many witnesses; [ not Judges ] Dom:  
 not each to himself, but to the rest and the publick; \* *Plut:*  
 just as, on that account, *Legatarius potest esse testis in in Grac-*  
*testamento ubi aliquid ei relictum est; & civis potest esse chum An*  
*testis in causa sue universitatis;* ) he ceased to be King, *Sacro-*  
*ipso jure*, ( as *Gracchus* proved in the *Tribunus-plebis* *sanctus*  
 himself, though most inviolable \* ) his remanent *erit, cui*  
 Right having ceded to the Conqueror, and from *nihil*  
 him to the Subjects, *aut sa-*  
*crum aut*  
*sanctum*  
*tuit.*

## T H E S I S I V.

*The now Manumitted, and so ( from the late K: J: ) free People, choicing to declare the ( then ) Prince their King, his present Possession is Founded on all the Rights that the utmost extent of Birth-right, Conquest, and Election, conjunctly or separatly, can afford: and so all his Majestie's proceedings ( as grounded on immoveable Justice, ) are most consistent with his Honour and Glory. As shall be demonstrated.*

## P R O B A T I O N.

1. **T**HE People, having now the whole power in their own hands, might have declared it

to whom they pleased. i. e. King *James*, or King *William*, and Queen *Mary*. It is well known that they being Legally quite of K. J. the current of the Kingdoms ran against recalling and re-establishing him. Their general reasons were (not only the justice of so punishing him [if it can be called any punishment] for bygones, but also) at home; the new danger of *Popery* and *Slavery*, against which K. J. would never have granted sufficient Security, (Religion and humour being perpetual Barrs thereto) and tho he would from within, yet he could not from without: since there was no way to do it (*Papists* promises [to Hereticks especially] being *fides punitica*) from Forreign Combined Invasions: And Abroad; the cutting our selves off from the *Protestant* Allies, and them from us; a thing grossly against Interest, Gratitude, and Charity, considering their kindness to us, and both their, and our, present and future, Common Perils. Particulars were infinite, of which we had many in the Debates and Writings. Wherefore the *States* seeing, the Justice, Necessity, & Utility of Electing this time to declare the Part their Monarch; did make that happy choice which he was graciously pleased to accept accordingly. This Condescension of His, was an Act of the greatest Justice, and Conscience, and Necessity of Duty and Honour; and consequently, nothing derogating from, but adding to, his former Renown and Glory. For His Majesty may be considered all along this Enterprize, either as a Sovereign Prince (Abstractly from any Relation;) or (Concretly) as K. J's. Nephew and Son-in-Law. I shall shew that, as the first, he hath been blameless; and as the second, nothing undutiful: and Consequently, that as both, Virtue rears him up rather to Wonder then Imitation: For that (like *Fabricius*.) he was innocent even in war (which is so hard,) *Et qui aliquid crederet & in hostem, nefas.* This shall be done first in general; then in special both as to his Right by Conquest and as to his Right by Election.

First

First, in General. Since this was a Just and Solemn War, and also justly Prosecuted (as hath been proven) the P. (both as a Prince and Kinsman) is necessarily blameless therein: (both as to its Consequences of Conquest and Election.) For as the *Acheans* "said to the Senate, *Quonam modo quæ jure belli acta sunt in Disceptionem venient? quicquid in hostibus feci, jus belli defendit*": And as *Marcellus*, of Souldiers, *Quæ commissæ capite luerent, tum quia palludati fecerunt, Landamus* \*. That Mean which is necessary for obtaining a good and Lawful end, is also good and Lawful; for in *Moralibus, qui dat finem, dat ea quæ ad finem perducunt; & dato consequente, datur Antecedens sine quo ad consequens perveniri nequit*. Neither must this necessity of the Means (requisite to a Lawful end) which we have right to use, be examined according to a *Physical Subtility*, but *Morally* in a *Moral Matter*, such as War is. In particular, *Theologues* teach, that War being a means, is destinat to, (and so must preceed) the end (which is to remove those things which perturb Peace:) And so War and its effects continue still just, till by its means that end be gained and fully satisfied \*. But the P's end (*viz.* our Preservation from Popery and Tyranny, present or future) was Lawful; as hath been Demonstrated. And it was Morally impossible to obtain this end but by the means of War: (all others being rejected by K. J.) and to come at this one end by the means of War, there were only two Adequate and Plenary Manners Morally possible, *viz.* K. J's. own Concession, or the P's. become, in effect, King by Conquest for denial of that. But K. J. first would conced but little, and at last (having deserted) could grant nothing at all: and so the Prince was Absolutely necessitate (since he knew then [what appeared before Probably, and thereafter in the Meetings, certainly] that the Subjects would have it no other wayes) to use his own right. This he did most Justly and Noblie; and

\* Liv.

26.

\* Sen.

Epist. 96.

\* Thom.

I. 2. Q.

40. Art.

1.

and that in special, first as to his Right of Conquest; then of Election.

1. As to the Right by Conquest: the Justice of inflicting that Punishment; and the necessity of duty and honour (by cause of the state in which K. J. himself had cast affairs) and so the Moral impossibility (by K. J. own fault) of hindring the Subjects proceedings (some way or other) against him; did oblige the P. to use it.

1. As to the Justice of inflicting that Punishment (of using the Right of Conquest:) The war and punishment being most just in themselves (as is proven formerly) both being inferred only, after K. J. was obstinately Inflexible: the inflicting this punishment in right of this war, must be fully justified; because K. J. hath consented thereto both by his Acts of first Transgressing, and then Deserting. For a Delict is a kind of involuntary Contract: since he who wills to, directly transgress (against the Law of Nations *V. G.*) Indirectly, by Consequence, and impliedly, Wills also to merit punishment: So, *Ipse se huic pœnæ subdidisti*, say the Emperors\*; and he who suffers himself to be Circumcised (when he might avert it by granting some thing in his Power, much more by paying a Debt) consents to the Circumcision and is punished accordingly†. Hence any damage sustained by the delinquent thorow the inflicting punishment, cannot be properly and truly called loss: since it's payment of an [impliedly] consensual debt due to the Delict; and “*Qui damnum sua culpa sentit, non videtur damnum sentire; & nemo damnum facit nisi qui id facit, quod facere jus non habet*”; Et non-  
 “*dum videtur vlm facere qui jure suo utitur*†; ut & nul-  
 “*lus videtur dolo facere qui jure suo utitur*\*. Whence there is no Injurie done to the Nocent when he is  
 “*punished: Since, Non exiguo falluntur errore qui cen-*  
 “*suram sive humanam sive divinam acerbatis & malicia*  
 “*nomine infamant; putantes nocentem dici oportere qui*  
 Nocentem

\* L. Im-  
 peratores:  
 Jur. Filc.  
 L. Ult. C.  
 ad L. jul.  
 Maj.

† Struv:  
 Ex. 8.  
 th. 12.

\* L. 151  
 R. J:  
 † L. 155.  
 R. J.  
 \* L. 55.  
 R. J.

*"Nocentes afficit pana \**; And, *Removeantur patrocini* *quia quæ favorem reis & Auxilium facinorosis impertiendo, maturari scelera fecerunt †*. Consequently it is Justice (to which Princes are obliged [since the Law enjoins, let not thy eye pity them] in so far as able and the Law of Nations permits) to punish Delinquents: and so it is no Inhumanity: For GOD, himself most Merciful; CHRIST most Patient \*; and Moses; the meekest on Earth; did most severely damn the disobedient. All which holds much more in our case, where (K. J. Person untouched) there is nothing taken from him, but his Deserted Estate: i.e. the Power of farther Injuring. For the R. as Seneca speaks, *Non irascitur sed cavet*: did not Acquiesce in K. J's. evil; but respect His, Ours, and Others good: which did perfect the Equity and Moderation of this punishment. K. J. own good is expressed by Seneca † (more largely then we require, ) *Interdum ut pereant interest pereuntium*, Because a Delinquent, as Plutarch hath it, is, *Ceteris noxius at sibi Maxime*: Wherefore it was less evil to die (at least as to the Estate only) then (without Repentance which Adversity occasions) by living (thereto) to go on in sinning; as a Medicine, which tho ungrateful to the taste, is healthful, must be given to those (at least) who are otherwise irrecoverable. Our good is evident; for hereby we are secured from suffering the like hereafter either from K. J. or others. All Mankind reaps Advantage from the terror of this publick Example: For Princes will be just, (and so Subjects rest happy) least their Neighbours should come and Vindicate Humanity; there being no barr of Rebellion.

2. Necessity of Duty and Honour (by cause of the state to which K. J. had drawn Affairs; ) and so the moral impossibility (by K. J's own fault) of impeding, at least, the Subjects even dethroning him; did urge the Prince indispensibly to use his Right by Conquest. That is, the Prince seeing an end, (viz. Self.

\* *Libertatis de ira Dei. C. 17.*

† *L. 3. Cod. Theod. P.*

\* *Matth. 22. 7.*

† *Sen. de ira. C. 6.*

*Self-preservation*; and consecutively thereto, [at least a probability of their firm Resolution of] the keeping out of K: *James*; unalterably concluded by the Subjects: this mean (as most all-satisfying) to that end (the first part of which he would not, and the other [when concluded by the States] he could not, *scope*) was necessarily concluded by the Prince yet so as also Legally; it being the inflicting that punishment which he had so just right to inflict. For first, As to Duty. It is known to all in what a stream the Subjects (as their Representatives [as freely elected as ever any were] also told, when advised) were carried against K: *James's* return, when K: himself had once set them free by Desertion. And he would the Prince himself (against Justice) in not using his own Right, (by a strange turn of the Tables,) once more ruin us: since K: J: neither would in Humour, nor could in, his Religion, and Respect of Forreigners, sufficiently secure us therefrom: Or could the P: (in power) bring K: J: back against Millions gainstanding; because they were perswaded (be the Truth as it will) he went on to destroy them; and that they could expect no less at last (since *Papists Religion* cannot change, and there was a new subject of Revenge) by borrowed aid; All outward appearances of safety notwithstanding. And if the P: had left us (which alone [if that same] was in his power) exposed to confusion, or our Enemies (both which were inevitable by his deserting his Right, also;) he had, against the dictates of Nature, Law, and most solemn promises †, (to cause our full Redress and Security) turned our benefit received (but imperfect as yet) to our Calamity. But the P: did otherwise, as indeed, all that is Sacred did oblige him, in Duty. For, *Thou shalt not deliver unto Master the (oppressed) Servant who is escaped from his Master, unto the ----- thou shalt not oppress him*

† *Vid: his Decl:*

† *Dent: 23: 15, 16.*



and *Non debet beneficium in calamitatem converti* \*. \* L. 20.  
 so, we being given up and intrusted to his never ff. de cap-  
 sorted Faith, *Fides agi visa, deditor non prodi* \*. tivis.  
 Secondly, as to Honour. True Honour is the reward \* Liv.  
 of Virtue and Glorious Actions: Whence it hangeeth VII.  
 on the Airy esteem of Vulgar ignorant opinion;  
 and indeed of it self, Essential and Absolute, in-  
 herent and Natural, and so can have its Lustre (as  
 the Diamond) from it self alone. Wherefore this  
 having been justice and Duty cannot be but honour-  
 able: whatever the Ignorant ( of Right and Fact )  
 think; or the ( knowing of both, but ) wicked,  
 or interested pretend. Honour would not  
 permit such a mean Act; as to sist *re infecta*, and  
 give over ( to our irreparable loss ) that right K. I.  
 which he had given, and thrown on, him, and that  
 with so injurious Threats: since this had been bely-  
 what he had already done, and tamely sitting  
 down to acknowledge his former Error. His Glory  
 and Courage were incapable of such *Pusillanimity*:  
*For if thou faint in the day of Adversity ( such was to*  
*him K. I's. being Finally remediless ) thy strength is*  
*small; if thou forbear to deliver them that are drawn to*  
*death; wilt thou not preserve them that are led to be*  
*slain* \*. Neither would it excuse the P. that what  
 he knew in this, we neither did, nor could, know  
 perfectly (it being contrived of purpose, so as no  
 legal Probation could be had: to do which is al-  
 ways easie to so great Masters and Secretaries as the  
 P. was, [ for Example the Massacres never known  
 actually seen; ] those of them who [ for Money ]  
 sold it to any, being sure [ for their own future  
 safety and honour of the Society ] to do that, on word  
 of Honour and Oath never to discover the informers  
 and witnesses. ) For the Text adds, *If thou say,*  
*could we know not of it; He that pondereth the heart,*  
*will not be deceived: He that understandeth it?* Finally, let us hear  
 concerning the right by Conquest ) the Noble Ro-

\* Prov.  
 24. 10.  
 11. 12.

\* Halic.  
Lib. 7.

"mans to the Volsci \*, Cum non a nobis hoc jus sit insti-  
tum, sed a Diis verius quam ab hominibus profectum  
"Omniumque Gentium tam Gratarum quam Barbararum  
"usu probatum; nihil vobis per ignaviam concedemus  
"Maximum enim id probrum foret qua virtute & sui-  
tudine quassia sunt, ea per formidinem aut stuporem  
† Lib. 6. "amittere: And † Neque enim induct possumus ut stulti  
"facilitate deleamus virtutis monumenta, si ea illis re-  
damus quibus semel perierunt.

\* Diod.  
Sicul  
Lib. 13.

From all which it is perspicuous that no Commis-  
eration or Clemency ( entailed by Succession on our  
great Prince ) did engage him, not to use his Right  
by Conquest. For the most Holy Altar it self, shew-  
ed no favour to those who troubled the State of the  
Countrey deliberately: And ( as Gilippus says \*  
"These who ( Dolo malo & injusta alieni cupiditate  
"Very Coveting, much more Stealish, being a breach of the  
Commandments ) fell into these evils; let them not at-  
tend "cuse Fortune, let them not usurp the name of Suppliants  
"cants: for those Mens lives full of unjust deeds, but  
"left open no place for Pity or Refuge. Menander distin-  
guisheth excellently Misfortune and Injurie.

*Injuria illud distat infortunio,  
Hoc casus, illam quod voluntas efficit:*

† Cic de  
invent.  
2<sup>a</sup>

"Whence Cicero † concludes, Misereri oportet  
"propter fortunam, non propter malitiam in miseris  
"sunt. Hence, since the injuries were done not  
only to the Prince, but the Subjects, and the danger  
impended over both; it could be no Clemency or  
Greatness of Mind in him, to remit their rights,

\* Sen. de  
Clement  
C. 20:

"Seneca \* ( speaking of a Prince ) does argue, Neque  
"quemadmodum non est magni a nimi qui de alieno Libere  
"lis est; ita Clementem non vocabo in alieno dolore fac-  
"lem. So we shall conclude with the Sentence of the

\* Liv. 7.

"Admirable Livius \*, Satius judicemus paucos aliquos  
"mala ferre quam immensam multitudinem.

We feel likewise from the Premises, that the P.  
 tended ( *ab initio* ) to take nothing from K. J. ( that  
 truly his ) on condition of granting the things de-  
 manded; but to leave the Scepter to him on the Con-  
 ditions ( now ways truly Noxious, as himself and Pre-  
 cessors had prejudged in many Parliaments ) of our  
 reservation: as *Hercules to Priamus*,

*Suscipe, dixit, Rector, habenas,  
 Patrioque, sede, celsus Solio,  
 Sed Sceptra fide meliore tene.*

when K. J. would not keep it on these ( first, long  
 sisting the most of them, then all, by Desertion )  
 justice, Conscience, necessity of duty and honour,  
 compelled the P. ( *ex, post facto, & causa supervenien-*  
 ) the condition failing, to use his right of Conquest.  
 even as, when I pursue my Father for a Personal  
 debt of the duty or fact to which he is obliged, I in-  
 tend not to evict his real estate; yet, he delaying, I'm  
 constrained to affect it by Adjudication: So in the  
 demands of *Denunciation*, Conquest is not the Will  
 but implied Certification. And as, when I wound a  
 man in Self-defence, I intend not Primarily, and  
 from the beginning, his hurt ( which would be Sin )  
 but my own Preservation: and in the Act it self, ( be-  
 come necessary ) I wish it were Morally possible, I  
 might do any other thing to deter or debilitate him:  
 but while as himself will not permit it, I remaine  
 blameless.

2. As to the P's. right by Election; What is said of  
 Conquest holds much more in his Accepting the Right  
 by Election: since as K. J's. deeds and the Subjects ir-  
 repressible Resolutions have conferred and forced on  
 the P. the first Right; so the Subjects by themselves  
 ( tho in a different manner ) the second. The States  
 might have run to Extremities ( as the *Suisses* and *Gri-*  
 s after getting out under the *German Empire*, or the

Provinces, Spain) or, he refusing, declared an' other which they would have been torn with great Division done; and when done, less happy; which his declared promistied the P. to prevent: ) and would no more (being at Liberty) by recalling K. be shot (like the Eagle) with their own Pens: and the P. was engaged, to accept the offered Declaration of his own and K. J's. Childrens Rights, by love he bore to them, and the Zeal and Obligation himself had to embrace all Lawful means of serving the Protestant Religion here, or elsewhere. The signs of K. J. against both him and all Britain, appeared from injurious Threatnings and great Preparations: Wherefore to have left us destitute of his Conduct (*armis & consilio*) and Alliances (which strength we had already, so Beneficially known) had been to expose us to the very same ruine which came to Avert. But Justice, Duty, Necessity, Conscience and Honour, did oblige him; that (as came at first, for us and our Religion) so to stay last, for us and our Religion; and (not only to begin but) continue in well-doing: especially considering the very same causes (yea Augmented) continuing (both as to K. J. and us) should produce the same effects. And *Potestates summa vim non presententur, sed qua de longo imminere videatur praevenerunt, ulciscendo delictum, captum jam, sed non consummatum* \*.

\* Grot.  
2. 1. 16.

As to the Prince's Relation, (in being Kinsman and Son in Law to K. J.) it renders, what he hath done (as a Prince) both as to his Right of Conquest and Election, no wayes undutiful. For, no Natural Bond obligeth me to gift over the Right I have from the Law of Nature or Nations; at least without Justice, necessity of Duty, Conscience, and Honour obliges me to use it my self; No Relation becometh *iniquitatis vinculum*; And *Qui jure suo utitur, nulli facit injuriam*: and so that Relation could not hinder

other (seeing the necessities from the Peoples irre-  
 divisible bent against K. J's. return) from doing these  
 duties to his Religion, Glory, and Countrey. By  
 the Law of Ordinate Charity we must do more  
 good of the Innocent then Nocent; and common  
 private: whence such an effectual love to our  
 Friends, should only be exerted, except a  
 greater, and more just, to many others (which is the  
 origine of all Pious censure and war) hinder it: be-  
 cause inordinate Mercy to them were Cruelty to all  
 others; and punishing those, is, to these, Mercy.  
 Hence *Augustin*, *Sicusest aliquando Misericordia puni-*  
*ens, ita & Crudelitas parcens*, And *Chrysostom* †, *Non* † *Chrysost.*  
*seculis, sed ex bonitate talia faciunt homines*. For ad. 1 Cor-  
 there are three, Successive Orders and Degrees of 3. 12.  
 natural ties, viz. First to GOD, then our Country,  
 and lastly to each single Man. And the inferior de-  
 gree, (to each single man) must by the order and  
 Law of Nature, being Ballanced with, cede to, its  
 two Superiours. (To GOD and Countrey.) Hence  
 we must leave Father and Mother and follow CHRIST;  
 and *Cicero* concludes, *Patriam debere Parentibus esse*  
*maiores*, and out of *Demoibenes*,

*Carum occidisti dum vis Succurrere, nullum*  
*Crimen habes: manus est tibi purior ac suis ante.*

to a Tutor, tho' being the King's Advocat, is oblig-  
 ed in Law and Honour to defend his Pupil against all  
 Mortals; and so the King himself and nearest Rela-  
 tions: as in all private judgments (to which War is  
 assimilate) GOD hath prescribed, *Neither shalt thou*  
*maintenance a Poor man in his cause*, .... Nor honour the  
*person of the mighty* \*. That is, (as *Philo* expresses) \* *Exod.*  
*opores res abstrahere a Litigatorum respectu*: Whence 23. 2.  
 the doing the same (necessarily at least) in war, is  
 no wayes undutiful; especially since such a desperate  
 Disease was irrepressible, unless by the sharpest Me-  
 dicines

† Quil.  
Decla.  
271.

\* Jud.  
20. 18.  
21. 10.  
15.

† 1 Kings  
15. 11.  
13. 14.  
1 Kin.  
2.  
\* 2 Chron.  
26.  
2 Kin.  
15.

dicines. Finally, Paul only requires Children themselves to obey Parents in the Lord; And Quintilian †, Imperes filios sententiam dicat contra quam existimes, licet dicere, hac sunt quae fieri non oportet: and so K. J's Commands could not break off the P. from what he was perswaded in his own mind. Approved examples go further then we require in our Circumstances. For Thebe is praised for killing her Husband; and Timoleon his Brother; and Cassius and Fulvius their Sons for Tyranny or endeavours to reduce it: Even a Presbiter (tho Brethren) depose incorrigible Brethren. The Eleven Tribes did near Extirpate the Benjamites, (which breach, yet, the LORD made) after requiring, and their not hearkning, but making head against their Brethren: and that for one Crime of not delivering up the guilty of one Malefactor. And smote Jab-sh Gilead for not assisting. And Asa did that which was right in the sight of the Lord: and his heart was perfect: and Maacha his Mother, even he removed from being Queen: because she had made an Idol in a Grove †. Solomon accepted his Brother Adonijah's Crown; and smote himself that he died. And Jotham, his Father Uzziah's; so soon as he was cut off from the Congregation, for, his Usurping the Church's Right, and thereon, Leprosie †. So Seleucus King of Asia kepted the most famous Demetrius (his Father in Law) in Perpetual Prison: and Hugues Capet (which I mention, only to stop the French King's mouth) his near Kinsman. Christiern King of Denmark thought it not against his Honour (his Brother being expelled) to accept his Crown; and imprisoned himself (returning) in Calembergh Castle. Eadem Pietate (says Bodinus) John King of Sweden was forced to keep in Custody his Brother Henry, repudiate by the People, lest he should have vexed himself and the Publick. The great Henry III. of England was Crowned in his Fathers lifetime. And I (1. & 6,) retained his Mothers Scepter, as the Pious Q.

Elizabeth (a near Cousin) retained her Person long Captive. All these I hope, either in respect of their high Qualities, deep Knowledge, signal Piety, and being informed by the greatest *Cassists* and *Lawiers*, had sufficient Sense of true honour, right, and Conscience.

Finally, To a just war (so called as *justa nuptia*, *justum testamentum*) and to infer its peculiar effects and consequences whatsoever; [without any respect to its cause or prosecution] there are only two things required in the Law of Nations, viz. Sovereign Power on both sides, and Denunciation\*; and possession on both these: and consequently after obtaining Possession, all lawful Obedience is due to the Powers in such Possession. This Law was introduced by Nations for publick Utility and eviting grievous incommodity: So that it being a common Pactiō of all Mankind (as Civil Law is *communis reipublica sponsio*) on so just grounds; the possession throw Conquest and by occasion of such a War, hath right transmitted by consent, not only of the Conquered (*posito eo casu*) but of all other Mortals. And so the effect of this is, to be acknowledged by Forreigners, and obeyed by Subjects; and that it should be maintained in that Possession by both, according to that "consent. *Ceterum jure Gentium, non tantum is qui "ex justa causa bellum gerit, sed & qui in, in bello "leni, & sine fine modoque, dominus fit eorum quæ hosti "eripit: ut a Gentibus omnibus & ipse & qui ab eo Titu- "lum habent, in possessione rerum talium tuendi sint* \*.

War among Princes is like Actions betwixt private men before a Supreme Judge; Victory and effect following thereon, to a Sentence and Execution: so that as, *Res judicata pro veritate habetur, & prout jus dicit etiam cum iniquè decernis*, Because in Tali judicio *quasi contrahitur*; Conquest gives External right to the Conqueror, without respect to the internal justice. The Reasons that induced all Nations to this consent were evident.

1. Since

\* *Grat.*  
1. 3. Q.  
1. 118.  
de V. S.

\* *Grat.*  
1. 6. 2.  
3. 4. 4

1. Since many things both of Fact and Right escape the most accurate observation; and its impossible to observe exactly the precise measure of Defence, Recovery of what is due to us, or ours; or the Equivalent merit of inflicted Punishment; necessary urged to leave the justice of the cause in War, and the moderation used in its effect (and all following thereon) to the Religion of its Authors; since there is no common Judge, each party pretending he alone hath a just cause; and other States will not Pronounce therein, least they should be implicate in the Controversie. It would be an endless task, and require an Infallible History of the World (which is not to be made by Man) to prove clearly the just Titles from which any King whatsoever derives his Right; and therefore Possession of the Power and Force have been fixed as sufficient Charters thereof; there being no less necessity of securing this Dominion (for avoiding confusion) then of introducing Dominion at first (for that cause) by such an Universal tacit Renunciation and consent of those interested in common. Necessary of it self, Legittimate exceptions (not expressed) from general duties certainly incumbent by the Law of GOD in *Expressum*; as the instances of the Sabbath, Shew-Bread, plucking ears of (other mens) Corn, and Alliances betwixt Husband and Wife, do make manifest. But absolute Necessity engages (especially) private men, who are not able to judge a controverted Right, and ought not to prefer (in these Points of Law) their own ill informed opinion, to the judgment of all other knowing Concitizens (since it was our consent and will, in first entering Society, that the Major part should oblige each single man in those things for which that Society was institute [i. e. publick Determinations and common good] and not that there should be no possibility of establishing peace and calming differences: much more when there is a new consent by choicing

Re-



Representatives for that effect) to follow the guide of Possession in their Obedience. And Consequently this necessity much more Legittimates this obedience (not certainly prohibited by the Law of GOD, but) certainly enjoyned by it: as shall be proven hereafter.

2. The Advantages of private possession (*ut ab armis abstinetur*) especially obtained by Sentence (to which Victory is Equivalent) shews us the Reasonableness of this Law. For any Possessor whatsoever; *cuius*, hath more right then he who possessor is not; and, *indubio*, is judged for against the Possessor: for there is a Dominion of Possession it self besides the Presumptive Dominion of the thing possessed. None is holden to produce the title of his possession: and there is a presumption that he possesseth Lawfully. None is to be deprived (even of unjust) Possession without Cognition of the cause (or Citation to that effect) and *Moderamen inculpae tutelae* is allowed the possessor to defend it, even against a judge proceeding without that. Possessors have retention (at least) for necessary Expences: *Et in pari causa* (it self) *semper melior est conditio possidentis* \*: Since all this obtains where there is little hazard of publick Peace, how much more must it obtain where publick Peace would be, other ways, totally ruin'd: which solid "ground made Cyrus † to Relate, *Lex est sempiterna inter homines, capta hostium Urbe, eorumdem res atque pecunias, victori cedere*; And Plato, *Bona, quae victus habuit, omnia Victoris sunt*; And Augustus "judge him a Good Man and Citizen who would not have "the present state changed; And Cicero, *That is behoov- "ed a Patron of ease and concord to defend the Settlement "of the Common-wealth, which is in Being for the "time*; And Livius, *Optimum quemque presentis statu "gaudere*.

3. The necessity of admitting Possession obtained by, or by occasion of War, the only *exemptio* that

\* See for all these Cit. a Struv. Ex. 51. th. 23. † Xenoph. instit. Cyr. Plato de Legib. Cicero. Orat. ad Quir. cont. Rullum, Liv. Lib. 35.

\* Bodin.  
rep. P.  
379.

that Demonstrateth Right ( in its several kinds ) among Supreme Princes , and over the Subjects ; is Demonstrable from the context of the Worlds History. For the first Origine of Kingly Power ( at least after the Flood ) was from, or by occasion of, Force ( excepting perhaps, some Patriarchal and Consensual Rights \* : ) which begune by *Nimrod*, the *Affyrian*, *Persian*, *Grecian*, and *Roman* Monarchies, were derived down by the same Title. So, the old *Egyptian*, *Ethiopian*, *Gracian*, *Macedonian*, *Corinibian*, *Athenian*, *Lacedemonian*, *Cretian*, *Latin Kings*, have got their Empires by Arms, transmitted the same by *Succession* to their Posterity. Four Emperours held the *Roman Empire* in one year, the Rights ceding to the Stronger successively. The *Grand Seigneur* hath no other Title to all his Dominions ; nor most that ever were settled under, that *Mistris of the World* ! *Rome* ; or under the conquests of the *Goths*, *Normans*, *Vandals*, *Hunns*, &c. For their Liberty ; against the extant Representatives of these Sovereigns. In a word ( not to swell up particular Histories of *Denmark*, *Sweden*, *France*, &c. ) remove all Right from possession following on War as to Princes ; and the Doctrine of Resistance as to Subjects ( and one of these must have given the foresaid Rights ) so that neither can afford a good title ; there will not be one Lawful King, or State in all Europe : ( especially in our times ; when some Lawiers [ particularly *French* , conclude neither Prescription nor Subjects consent to prejudice a Sovereign. ) And yet both Neighbours and Subjects have acknowledged them all Lawful as both *Christians* and *Pagans* did , and do, in the former instances. All which irrefragably evinces that Mankind hath consented, Possession ( on [ at least a Lawful Denounced War ) should decide all Controversie of Debatable pretensions to the Right possessed, both as to Prince and Subjects. Which is a special Providence of GOD, who, otherways, ha

left Men more miserable then beasts; and the confused World to flame in inextinguishable Combustions both Civil and Publick: Whileas now (for he is a GOD of Order) Possession, in a great measure, prevents these dreadful Convulsions. In the Controversie about *Olynthius*, in *Seneca: Vobis, Athenienses, expedit; alioquin Imperium vestrum in Antiquos fines redigetur quicquid est bello parium*: And *Quintilian* Testifies, *Jure belli Regna, Populos, fines Gentium, atque Urbium Contineri*. We must not therefore, condemn and upbraid all the Princes and Subjects (in every Revolution) since the Creation, in Criminally denying Obedience † to our present happy Government.

4. Domestick Precedents and Municipal Laws (to which K. J. hath also consented and sworn, and so, on condition of the existence of such a case, renounced his Right) go along, (as indeed, they cannot hinder) this Law of Nations. For by the express Law\* of *England*; the People investing any, their King he becomes *King Regnant*; & so Treason is committed against him; yea which, the King out of Possession (whom it is no Treason to kill, and whose Pardons are null) coming again to the Crown, may punish as Treason. So *Ed. IV.* chased out of *England*, and *Henry, VI* set up, the Leagues with the former King and Realm subsisted; the right of the Successor and Body being the same, the Head only changed †. *Charles I.* having sworn to the King of *Spain* expressly as King of *Portugal*, did receive Ambassadors from the then new King of *Portugal*, without being judged, in *England* or *Spain*, to have broken his former Oath and League. Even as *Charles VIII.* having Conquered *Naples* his Discharges on receipt of publ ck dues, were sustained valid by the Vanquished being restored\*. Yea the Acts of a meer Tyrant and Usurper, (i. e. who without War Denounced, or being a Subject, hath

† Nulla enim tam propria Rebellio est quam reiteratione belli (semel sedati) contra virorem.

*Rosentbr*

10. 35.

24.

\* 11 H:

7. C. 1.

4 Ed. 4. 1.

9 Ed. 4.

12.

*Cook* just

3. fol. 7.

† *Comines*

3. 6.

*Vid.*

*Cambden.*

an. 1572.

\* *Afflict.*

decil.

*Neip.*

114.

got 509.

got Possession *de facto*, but no Right *de jure Gentium*, which is noways our case) subsist and oblige; least, otherways, Order and Justice taken away, all ran to ruine\*. So Cicero and Florus argue for Sylla's Laws; and Cromwel's needed Rescinding, *Es privatio præsупponit habitum*. This Law of Nations holds much more, when the Possession hath the absolute consent both Tacite and Express, of, (yea proceedeth from) the People; as it was in all the steps the P. made both in first coming over; then taking on the Temporary; and at last, the perpetual Government. The last was by precedent consent of the whole People; and the first two by the wholes Ratihabition: which may be cleared by this Example. The Election of the Roman Emperors, by the Citizens of Rome (which was the Mistress, and alone had the Disposall of the Roman Empire) staying at Constantinople, (*Bisamini Quirites*, says Lucan) was valide by the tacite consent of the Senate and People\*. Then the Election of them by the Senate became valid by the Peoples Ratihabition and Acquiescence: As the Legions Elections (of themselves insufficient) were also confirmed: and at last they declared their minds by the mouth of their Bishop and Principal Citizen: and the Emperors so established were, and are, acknowledged by all Forraigners and Subjects. K. J's Mutining Friends were, and are more, specially obliged to this Acquiescence and Consent; since they might have been prosecute as Rebels, Banditi, and Robbers, but were (of admirable Clemency) spared: Even as a Captive in a just war cannot in Conscience, flee from the taker; for the right acquired in him should not be frustrated; and he owes him service by whom he is continued on life, in compensation of that Donation and Benefite†. Whence also appears the natural reason of the Premises, viz. From whomsoever we get Protection, we owe to him as a return, Allegiance: and whosoever will, or can, not give us pro-

\* Gros.

1. 4. 15.

\* Gros.

1. 9. 11.

† Laffius

Lib. 1.

C. 15.

Protection, hath no title to exact our Allegiance.  
*i. e.* Nature doth oblige us to preserve our selves, (under the Conduct of a friend) and not to perish (for the sake of an enemy, especially) in every Revolution.

5. But that which absolutely Enforces, our consent to this Law of Nations, and Obedience to the Powers that (*in presenti*) are, is the Authority of the holy Scriptures, and the Example of the *Primitive Christians*, and so, the Obligation of that Humility, Submission, and Peaceable Behaviour which our Religion teacheth us. For; the Power as it is a Power, and as it is in it self; and so as a Real Being and for our Good; is good and ordained of GOD: (since every real Being (evil is no being, but privation) is good of it self and effectively from GOD; And it is GOD that (by what means soever obtained) putteth down one, and setteth up another) without considering the justice of its Acquisition. Now, it is known that Nebuchadnazar's power over the Nations (was unjust in its Acquisition; and yet) when acquired, GOD calls him His servant, is said to set up his Throne \*, and threatneth him with destruction that, unlawfully, \* *Jer. 43.*  
 disobeyed him †. He made Zedekiah, as King under, and † *Exek.*  
 to give Oath of Fidelity to him; while his own Prince † *17.*  
 Jehoiachin was yet alive: this Oath, GOD (calling it mine) † *2 Chron.*  
 did approve; and therefore punished its breach, and the Rebellion against the Conqueror. The like Title had Cyrus, † *36. 13.*  
 and yet in respect of his Power, the Lord calleth him † *conferred.*  
 his Shepherd, and his Anointed, and telleth that it should be himself that would confer that power upon him \*. But  
 which is more, it is certain from all Histories, that  
 the Right; to the Roman Empire, from Caesar downward so long as possessed (at least) by title of Succession was meer Usurpation (because both assumed by Subjects, without Denunciation of war; yea without a Lawful cause: ) Yet St. Paul testifieth, That the Powers that were then were ordained of GOD; and Commandeth Submission to them, under the bayard of Re-  
 6/108

*fixing the Ordinance of GOD, and receiving damnation;*  
 And was obeyed by the Primitive Christians and Martyrs (sufficiently able to resist) accordingly. And they swore the Military Oath to every one that prevailed: and so never adhered to the Dethroned Emperor but acknowledged the new one. Nor is there one instance of (Clergy especially) in any part or Age of the Christian Church, doing otherways. The Sacredness of the Power once in possession (*multa non recte, sunt, quæ facta valent*) hath been so universally observed that, indeed, it seems to have been a part of the Traditional Religion conveyed from Noah to his Posterity, (so necessary that was for first Peopling, and then maintaining, the World peopled.) And at last, Authorised by *Christ* himself, who (because he saw *Cæsar* was in Possession of the Civil Power, by his Image) commanded to give unto *Cæsar* that which was *Cæsars*, (yea he owned the posselt Usurper *Cajaphas*; as St. Paul did *Annanius*) which perhaps is the reason of our Axiom, that the Crown purgeth all Defects. Finally, since meer possession, without considering the justness of its cause; yea where its cause is evidently unjust; and without Denunciation of War; yea in a Subject who hath no Power of war or to denounce; and without the Peoples good and consent; yea (in some kind) against both; gives such right to the possessor in the Subjects Allegiance: how much more in our case, where there is evidently the justest of causes; yea a concurrence of all the just causes of war; and these declared; and that by a Non-Subject Prince who hath right to War and Declare; and all (in all respects) for the Peoples good and with there consent; yea from both.

In respect of all which, if there be an Invasion; our natural ties, to King *William*, and fellow-Subjects, and Allies, and Our-selves; by our Allegiance, Duty, Gratitude, and Charity: indispensibly oblige us to defend Church and State; from Popery  
 and

and *Slavery* ( which will be surely the reward of an unnatural concurrence thereto, by concurring to this Invasion ) once out of doors: From *French* and *Irish* Dragooning Inquisitions; the necessary consequent ( both from their Religion and new Engagements ) of sufficient Power: from a Foreign Prince and a Foreign Prelate ( such are, at least, the *French King*, Princes of *Italy*, and the *Pope* ) whose Forces and Treasure come against us: from stranger *Miscreants* and *Savages* ( whom no command [ especially if wanting pay ] can possibly withhold from sacking Friend and Enemy; and a fair prospect of undoubted Victory will make a most fit nick of time [ we know what the *Jesuits* private instructions, and their Religion and spite to execute, can inspire ] unquarrelably to dispatch *Hereticks*, *Qua* Rebels: *Quibus & fides servanda non est cum existis potestas* ) whose Commissions from K. J. are null; and so to be resisted as so many *Irish* Wolves and Armed Robbers: Finally, from bearing ( as being the cause of ) that *Aceldama* of innocent Blood ( spared, hitherto, by such Miraculous Providence ) and the lasting ruine ( now guarded against ) of Religion and Liberties, here and elsewhere. For we need not think the Tragedie will end on this Stage, since ( in case of sudden Victory ) all that K. J. esteems bonds, ( viz. Religion, Promises, Honour, Gratitude, and Interest ) will indispenfibly engage ( all then, lying prostrate at pleasure without reserve ) to mutually relieve the pressed *French King*, and be revenged on the *Protestant* Confederates. And in case of a long intestine Desolation ( while the *French* run down all others being destitute of, yea weakened by sending to, *Britains* Assistance, ) what speedy concurrence will be denied to the favours of K. *William*, must be sacrificed with sorrow, to the fury of K. *Lewis*: since we know his Pretensions and intentions ( only stopable here ) for an Universal Monarchy, and against *Protestancy*; and that Religion

gion or Faith given, are no bars to his Majesty.

The Advantages, of a *Non-subject Prince*; and that the next Prince, and, next Prince's Husband, in Blood: miraculous, unanimity of the Princes (in most other things at Enmity) *Protestant and Popish*, abroad; and universal concurrence and consent of the People (as different in Judgements as Faces) at home: Undeniable evidence of Fact giving Occasion to both; and obstinate inflexibleness of the late *K: James*, to remove the same: His, first, *Abdicating*, then, *Deserting*, his Right, and Kingdoms; and the *Singularity* of matter of Right arising from all these: Finally, That no less, and no more, was necessary to stop the scruples of diversly principled Men; and so to confound even the Objections against all other Revolutions in the World: are the uncontestible *manduction of Heaven* (as GOD indicate him, whom he would have the *Israelites* own as Judge, by some *signal pre-deliverance*) to our present Establishment. Therefore we'll conclude with

## COROLARIE I.

**I**F, by the Laws of GOD, Nature, and Nations, King *William* hath, at present, the *Regal Right*; and *James 7. 2.* Hath amitted it; then all Subjects owe *Allegiance* to King *William* alone, and there is no *Allegiance* due to the late *K: James*. But by the Law of GOD, Nature, and Nations, King *William* hath, at present, the *Regal Right*; and *James 7. 2.* hath amitted it. Therefore all Subjects owe *Allegiance* to *K: William* only, and there is no *Allegiance* due to the late *K: James*. The consequence of the *major* is uncontraverted: For, our Saviour hath determined that *no man can serve two masters*; and the Law declared, that, *nemo potest esse duorum ligatus*; and both these are founded on the Nature of things, by which no Man



be Subject to two inconsistent and repugnant Al-  
 legiances; *ad impossibile, nullum, verum obligatur*. The  
 is proven as *supra*: and so, I hope, none will  
 deny the Conclusion. Hence

## COROLARIE II.

Some of our former Laws and Oaths bind us in  
 Allegiance to lawful Heirs and Successors. But  
 L. W: and Q. M: are lawful Heirs and Successors.  
 Therefore, our former Laws and Oaths bind us in  
 Allegiance to them. The *minor* is as clear as Noon: \**Succes-*  
*or*, \*he is a Successor who (by coming in the place) *for est*,  
 hath acquired the whole Right, of the Antecessor: *is, qui*,  
 and he is Heir who is actually Lord, (*heres quasi cum in-*  
*venit per universitatem* of that Right, at least, his *feriorem*  
 Antecessor being (*civiliter*) dead: and he is lawful *tenet*  
 Heir and Successor whom all Law, Divine and Hu- *locum*,  
 man, hath determined to have so acquired it. But *priore*  
 L. W: and Q. M: &c: Ergo &c. Consequently those gradu  
 who deny Allegiance to them are Disloyal and Per- *vacuo*,  
 jured: since Ja: 7: 21 is as uncontravertibly (*civiliter*) *ejus in*  
 dead, to *Brigit*; as, entering a Monastery, he would *locum*,  
 go to the World; or *Christina* of Sweden was, when *ascendit*  
 she resigned and went to *Rome*.

(l: 1, §.  
 si filius.

(*de suis & legis. l. 3. c. end.*) in locumque successisse, dicimus,  
 si per universitatem sive in rem successerint. (l. 1, §. in locum ff.  
 de leg.) hinc qui in rei Dominium succedunt, successorum nomine  
 videntur, (l. 14. §. adjicitur, ff. de damn. infect.) & succedaneus of-  
 ficij dicuntur (in l. 27. c. decur,) Hereais appellatione omnes signi-  
 fici successores credendum est. (l. haredis ff: de v: s.) Hi, sciz.  
 omnes qui in universum jus succedunt haredis loco habentur. (l. 128.  
 §. ult. ff. R: l.) unde Triphoninus; si pater ut hares, vivo filio,  
 servum castrense imposuit (l. hared: §. pater de cast: pecul:  
 ff) & Plaut: Menz: abstuli hanc, ejus hares (i. e. Dominus)  
 nunquam eris post hunc diem. Unde, liberi patroni, perduellionis  
 dampnati,

ammati, ( & sic civiliter mortui ) sunt heredes ( id est heri ) jure  
 is patronatus: & bona damnatarum ( & sic civiliter mortuorum )  
 edunt heredibus, usque ad tertium gradum: vid: intro: CHRIST  
 is Heir of all things; and that by inheritance; t e Elect are  
 heirs of the Kingdom (Ja: 2: 5: Heb: 1: 2: 4: 14:) So that K:  
 W: and Q. M: are, and may be called, Heirs and Successors to  
 their Kingdoms both in the Natural, Legal, and Scriptural ac-  
 ceptation thereof.

### COROLARIE III.

OUR former Laws and Oaths binding us to one  
 as King, and as having Regal Right, bind us not  
 to him, when, no more King, and having no Regal  
 Right, and so expire with his Kingship. But James  
 7: 2: is no more King, and hath no longer any Re-  
 gal Right. Therefore our Laws and Oaths bind us  
 not to him, but expired (as to him) with his King-  
 ship. The *major* is agreed to by all: for the *Basis* (or  
 Kingship ) subverted; the *Superstructure* (or  
 Obligation thereto) must fall, *nibili, enim, nulla  
 sunt affectiones*. So a Presbyter's Oath to his Bishop  
 Vassal's to his Lord, Souldier's to his General, &c.  
 becomes void when their Office terminates, by O-  
 thers coming in their Right and Place. The *minor* is  
 no less evident by what is already proven: For, since  
 K: W: is King, and hath the Regal Right to our Alle-  
 giance, J: 7: 2: cannot remain King, or have the  
 Regal Right; *duo enim, non possunt esse Domini ejusdem  
 i in solidum*.

# The Dissenter turned \* Loyalist.

Our great King, in Right, first, covered, with his Buckler, and, now, fortifies; with Ramparts, the Temple built of lively Stones, from furious Assaulters: Therefore we will cheerfully concur in improving this Vine of CHRIST; least the Boars of the Forest (after all his care) spoil or devour it. One part shall carry mortar, and another stand ready with Swords; † for bringing our House to its full height, and Repulsing the Enemies who would ruine it. Then: the miserables cries are not so out of our Ears; but, we will remember (the Christian Voyages as far as Judea) against a far more Execrable Turk, and Saracen: For those that die, with a Free-will, in so Holy a War, are more Martyrs, then their Brethren who were Forced to suffer, for RELIGION.

*\* This is not serving the times, but the Lord of times: nor being a Trimmer, unless all Loyal Subjects since the Creation were such, nor ingratitude, for the benefites were out of, given for, and so obliges to, † Neh. 4.*

the publick; at least, ad illicitum obligare nequeunt.

Trin-uni DEO Gloria.

F I N I S.